

226-A-13

67 Kingsmark lane

S. family

Legere Builders



**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM**

I. D. Number _____

Legere Builders for Bonetti, John
Applicant
304 Woodford St Ptld, ME 04102
Applicant's Mailing Address
Randall - 871-9483
Consultant/Agent
Applicant or Agent Daytime Telephone, Fax _____

18 July 1995
Application Date
Stroudwater Subdivision
Project Name/Description
Kingsmark Lane (Lot #8)
Address of Proposed Site
226-A-013
Assessor's Reference: Chart-Block-Lot _____

Proposed Development (check all that apply): New Building Building Addition Change of Use Residential
 Office Retail Manufacturing Warehouse/Distribution Other (specify) _____
~~XXXXXX~~ 1,132 sq ft/2,140 total 74,030 sq ft
Proposed Building Square Feet or # of Units Acreage of Site Zoning

Check Review Required:

- | | | | |
|--|--|---|--|
| <input type="checkbox"/> Site Plan (major/minor) | <input type="checkbox"/> Subdivision # of lots _____ | <input type="checkbox"/> PAD Review | <input type="checkbox"/> 14-403 Streets Review |
| <input type="checkbox"/> Flood Hazard | <input type="checkbox"/> Shoreland | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional Use (ZBA/PB) | <input type="checkbox"/> Zoning Variance | <input checked="" type="checkbox"/> Single-Family Minor | <input type="checkbox"/> Other _____ |

Fees paid: site plan 50.00 subdivision _____

Approval Status:

- Approved **Approved w/Conditions** listed below Denied

1. SEE MEMO
2. _____
3. _____
4. _____

Approval Date 7/15/95 Approval Expiration _____ date Extension to _____ date Additional Sheets Attached

Condition Compliance [Signature] signature 7/15/95 date

Performance Guarantee Required* Not Required

* No building permit may be issued until a performance guarantee has been submitted as indicated below

- | | | | |
|---|----------------------|-------------------------|-----------------------|
| <input type="checkbox"/> Performance Guarantee Accepted | _____ date | _____ amount | _____ expiration date |
| <input type="checkbox"/> Inspection Fee Paid | _____ date | _____ amount | |
| Performance Guarantee Reduced | _____ date | _____ remaining balance | _____ signature |
| Performance Guarantee Released | _____ date | _____ signature | |
| Defect Guarantee Submitted | _____ submitted date | _____ amount | _____ expiration date |
| Defect Guarantee Released | _____ date | _____ signature | |

Address: Kingsmark Lane (Lot #8)

MEMORANDUM

TO: Kandi Talbot, Planner
Alex Jagerman
Code Enforcement

FROM: Jim Wendel, PE, Development Review Coordinator

DATE: January 14, 1999

RE: Certificate of Occupancy
67 Kingsmark Lane (lot 8)

A request from the builder, Randy Legere, was made for a permanent certificate of occupancy.

After a site walk and discussion with planning staff, it has been concluded that a detailed site review for a determination of compliance with the site plan approval and concerns expressed in a memo to Kevin Carroll dated December 11, 1995 from the DRC can not occur with snow cover on the site. All the slopes must be fully exposed to fully evaluate the compliance with the site plan approval.

1350.10/disk#9/67kngsmk

RANDY
LEGERE

871-9483-20
799-8238



CITY OF PORTLAND
Planning and Urban Development Department

MEMORANDUM

TO: Kevin Carroll, Code Enforcement Officer

FROM: James Seymour, Acting Development Review Coordinator *JRS*

DATE: December 11, 1995

RE: Temporary Certificate of Occupancy for 67 Kingsmark Lane

I have reviewed the single family residence at 67 Kingsmark Lane and believe it would be acceptable to issue a temporary Certificate of Occupancy. A permanent Certificate of Occupancy should not be issued until the following conditions have been met.

1. A stone retaining wall constructed on the east side of the house appears to be a free standing stone wall. I foresee two problems with the wall:
 - a) The wall exceeds 5 ft. in height and currently holds a significant load of filled material behind the wall. Because of the apparent placed stone construction without any apparent anchors or geotextile fabrics, I must question the stability of this wall.
 - b) The wall is subject to significant saturation due to the path of drainage travelling from the driveway. A stone swale directs surface runoff from the driveway over the embankment area to the east property line and discharges at the foot of the embankment. Although grades eventually direct runoff to the stream to the rear, I foresee soil saturation and icing as a probable occurrence during the winter.

For the purposes of safety, stability, and appearance, the wall should be reviewed in the Spring by a certified professional or engineer. At that time, a letter and/or calculations should be submitted to the City's Planning Authority discussing the stability and safety. If the wall is not determined to be stable or safe, then provisions, to include details and a construction schedule to correct any wall defects, should be provided to the Development Review Coordinator. All reports and assessments should be submitted to the City prior to May 1st, 1996.

2. Because of the excessive slopes on the embankment to the driveway the applicant must install a guardrail/barrier for pedestrian and vehicular traffic. A guardrail must be installed along length of driveway as per section 1825.5 of the 1993 BOCA Building Code, to be constructed as per section 1021 of the 1993 BOCA Building Code. Installation shall be completed and reviewed by the Building Inspector and Development Review Coordinator within 10 days following the date of issuance of the temporary occupancy certificate.
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6. Due to confusion of permitting, the Applicant used the 65 Kingsmark Lane address rather than the 67 Kingsmark Lane. The applicant shall immediately change the posted address on the home to 67 Kingsmark Lane, since all building permits are under this address.
7. The applicant must submit a recorded plan showing setback reductions. The plan must be recorded at the Cumberland County Registry of Deeds as was made a condition on the Approval Letter dated August 9, 1995 from the Portland Planning Board. Plans must be submitted to the Planning Authority within 30 days.

cc: Kathi Staples PE, City Engineer

ATT 6

DATE TAKEN: 04 Aug 1995



PICTURE 1

Picture taken along protective zone line. South orientation.
[Approx. 35 ft from east property line
Approx. 45 ft from south property line



PICTURE 2

Smaller tree on left is same tree as in picture 1



PICTURE 3

Picture taken along protective zone line North orientation.
(opposite direction to Pic. 1)

Trees with yellow surveyor's tape determined to be within Building envelope and outside protective zone.



Inspection Services
P. Samuel Hoffses
Chief



Planning and Urban Development
Joseph E. Gray Jr.
Director

CITY OF PORTLAND

August 25, 1995

Legere Builders, Inc.
304 Woodford Street
Portland, ME 04102

RE: 67 Kings Mark Lane
Lot #8

Dear Sir:

Your application to construct a single family dwelling and two decks has been reviewed and a permit is herewith issued subject to the requirements listed below. This permit does not excuse the applicant from meeting applicable State and Federal laws.

No Certificate of Occupancy will be issued until all requirements of this letter are met.

Site Plan Review Requirements

Development Review Coordinator - Approved - with conditions (see attached) - M. O'Sullivan
Inspections - Approved - with conditions, as discussed. The side yard shall be changed to a 16' setback instead of 15.5' as shown on plans.

Building Code Requirements

1. Please read and implement items 1, 3, 7, 9, 10, 11, 13, 14, 15 and 16 of the attached building permit report.
2. The shoreland zoning setback variance shall be recorded in the Cumberland County Registry of Deeds to remain valid.

BUILDING PERMIT REPORT

DATE: 1 Aug 95 ADDRESS: 67 Kingsmark Lane
 REASON FOR PERMIT: To Construct a Single Family dwelling
 BUILDING OWNER: John Bonetti
 CONTRACTOR: Legere Builders, Inc. APPROVED: *1 *3 *7 *9
 PERMIT APPLICANT: _____ DENIED: *10 *11 *13 *14 *15, 16

CONDITION OF APPROVAL OR DENIAL

- X 1. Before concrete for foundation is placed, approvals from the Development Review Coordinator and Inspection Services must be obtained. (A 24 hour notice is required prior to inspection)
- 2. Precaution must be taken to protect concrete from freezing.
- X 3. It is strongly recommended that a registered land surveyor check all foundation forms before concrete is placed. This is done to verify that the proper setbacks are maintained.
- 4. All vertical openings shall be enclosed with construction having a fire rating of at least one(1) hour, including fire doors with selfclosers.
- 5. Each apartment shall have access to two(2) separate, remote and approved means of egress. A single exit is acceptable when it exits directly from the apartment to the building exterior with no communications to other apartment units.
- 6. The boiler shall be protected by enclosing with one(1) hour fire-rated construction including fire doors and ceiling, or by providing automatic extinguishment. Sprinkler piping serving not more than six sprinklers may be connected to a domestic water supply having a capacity sufficient to provide 0.15 gallons per minute, per square foot of floor throughout the entire area. An INDICATING shut-off valve shall be installed in an accessible location between the sprinkler and the connection to the domestic water supply. Minimum pipe size shall be 3/4 inch copper or 1 inch steel. Maximum coverage area of a residential sprinkler is 144 sq. feet per sprinkler.
- X 7. Every sleeping room below the fourth story in buildings of Use Groups R and I-1 shall have at least one operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside without the use of special knowledge or separate tools. Where windows are provided as means of egress or rescue, they shall have a sill height not more than 44 inches (1118mm) above the floor. All egress or rescue windows from sleeping rooms shall have a minimum net clear opening height dimension of 24 inches (610mm). The minimum net clear opening width dimension shall be 20 inches (508 mm), and a minimum net clear opening of 5.7 sq. feet.
- 8. A portable fire extinguisher shall be located as per NFPA #10. They shall bear the label of an approved agency and be of an approved type.
- X 9. All single and multiple station smoke detectors shall be of an approved type and shall be installed in accordance with the provisions of the City's building code Chapter 9, section 19, 919.3.2(BOCA National Building Code/1993), and NFPA 101 Chapter 18 & 19. (Smoke detectors shall be installed and maintained at the following locations):

CITY OF PORTLAND, MAINE
SITE PLAN REVIEW (ADDENDUM)
CONDITIONS OF APPROVAL

APPLICANT: LEGERE BUILDERS

ADDRESS: 304 WOODFORD STREET

SITE ADDRESS/LOCATION: LOT # 8 KINGSMARK LANE

DATE: 18 JULY 1995

Review by the Development Review Coordinator is for General Conformance with ordinances and standards only and does not relieve the applicant, his contractors or agents from the responsibility to provide a completely finished site, including but not limited to: increasing or concentrating of all surface runoff onto adjacent or downstream properties, issues regarding vehicle sight distance, location of public utilities and foundation elevations.

CONDITIONS CHECKED OFF BELOW WILL BE ENFORCED FOR YOUR SITE PLAN

1. X All damage to sidewalk, curb, street, or public utilities shall be repaired to City of Portland standards prior to issuance of a Certificate of Occupancy.
2. X Two (2) City of Portland approved species and size trees must be planted on your street frontage prior to issuance of a Certificate of Occupancy.
3. X Your new street address is now #67 KINGS MARK LANE the number must be displayed on the street frontage of your house prior to issuance of Certificate of Occupancy.
4. X The Development Review Coordinator (874-8300 ext. 8722) must be notified five (5) working days prior to date required for final site inspection. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.
5. X Show all utility connections: water, sanitary sewer, storm drain, electric, telephone, cable.
6. X A sewer permit is required for your project. Please contact Carol Poliskey at 874-8300, ext. 8828. The Wastewater and Drainage section of Public Works must be notified five (5) working days prior to sewer connection to schedule an inspector for your site.

RE: 67 Kingsmark Lane
226-A-013

SHORELAND ZONING REQUIREMENTS

WITHIN 75' OF NORMAL HIGH-WATER LINE:

- There shall be no cleared openings.
- A well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
- Clearing of vegetation for development is not allowed, except to remove safety hazards.
- No cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown is allowable. However a footpath not to exceed 10' in width as measured between tree trunks is permitted provided that a clear line of sight to the water through the buffer strip is not created.
- There shall be no accessory structures constructed, such as piers, docks, wharves, bridges, stairways, parking areas, and retaining walls without permits and review.

BEYOND THE 75' SETBACK, WITHIN SHORELAND ZONE:

- There shall be permitted on any lot in any 10 year period, selective cutting of not more than 40% of the volume of trees 4" or more in diameter, measured 4.5 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculations. Pruning of tree branches on the bottom 1/3 of the tree is permitted.
- In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways, and sewage disposal areas, exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever ever is greater.

RE: Timber Harvesting:

- There can be no single clear cut openings greater than 10,000 square feet in the forest canopy (measured from the edge of the crown of trees).
- Clear cut openings greater than 5,000 square feet must be 100' apart.
- Clear cut openings must be included in the calculations of total volume removal.

A: SHORZONE
8/24/95

CITY OF PORTLAND, MAINE
 SITE PLAN REVIEW (ADDENDUM)
 CONDITIONS OF APPROVAL

APPLICANT: LEGERE BUILDERS
 ADDRESS: 304 Woodford Street
 SITE ADDRESS/LOCATION: Lot #8 Kingsmark Lane
 DATE: 18 July 1995

Review by the Development Review Coordinator is for General Conformance with ordinances and standards only and does not relieve the applicant, his contractors or agents from the responsibility to provide a completely finished site, including but not limited to: increasing or concentrating of all surface runoff onto adjacent or downstream properties, issues regarding vehicle sight distance, location of public utilities and foundation elevations.

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5. X Show all utility connections: water, sanitary sewer, storm drain, electric, telephone, cable.
6. X A sewer permit is required for your project. Please contact Carol Poliskey at 874-8300, ext. 8828. The Wastewater and Drainage section of Public Works must be notified five (5) working days prior to sewer connection to schedule an inspector for your site.

7. _____ A street opening permit(s) is required for your site. Please contact Carol Poliskey at 874-8300 , ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
8. _____ As-built record information for sewer and stormwater service connections must be submitted to Parks and Public Works Engineering Section (55 Portland Street) and approved prior to issuance of a Certificate of Occupancy.
9. X _____ The building contractor shall check the subdivision recording plat for pre-determined first floor elevation and establish the first floor elevation (FFE) and sill elevation (SE) to be set above the finish street/curb elevation to allow for positive drainage away from entire footprint of building.
10. X _____ The site contractor shall establish finish grades at the building foundation, bulkhead and basement windows to be in conformance with the first floor elevation (FFE) and sill elevation (SE) set by the building contractor to provide for positive drainage away from entire footprint of building.
11. X _____ A drainage plan shall be submitted to and approved by Development Review Coordinator showing first floor elevation (FFE), sill elevation (SE), finish street/curb elevation, lot grading, existing and proposed contours, drainage patterns and paths, drainage swales, grades at or near abutting property lines, erosion control devices and locations and outlets for the drainage from the property.
12. _____ The Development Review Coordinator reserves the right to require additional lot grading or other drainage improvements as necessary due to field conditions.
13. _____

cc: Katherine Staples, P.E., City Engineer

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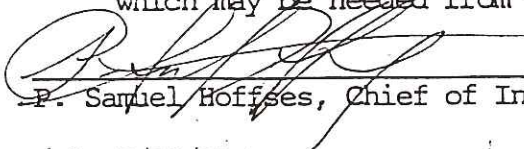
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1. In the immediate vicinity of bedrooms
2. In all bedrooms
3. In each story within a dwelling unit, including basements

In addition to the required AC primary power source, required smoke detectors in occupancies in Use Groups R-2, R-3 and I-1 shall receive power from a battery when the AC primary power source is interrupted.

- * 10. Private garages located beneath habitable rooms in occupancies in Use Group R-1, R-2, R-3 or I-1 shall be separated from adjacent interior spaces by fire partitions and floor/ceiling assembly which are constructed with not less than 1-hour fire resisting rating. Private garages attached side-by-side to rooms in the above occupancies shall be completely separated from the interior spaces and the attic area by means of 1/2 inch gypsum board or the equivalent applied to the garage side. (Chapter 4 section 407.0 of the BOCA/1993)
- A 11. Guardrail & Handrails-A guardrail system is a system of building components located near the open sides of elevated walking surfaces for the purpose of minimizing the possibility of an accidental fall from the walking surface to the lower level. Minimum height all Use Groups 42", except Use Group R which is 36". In occupancies in Use Group A, B, H-4, I-1, I-2 M and R and public garages and open parking structures, open guards shall have balusters or be of solid material such that a sphere with a diameter of 4" cannot pass through any opening. Guards shall not have an ornamental pattern that would provide a ladder effect.
12. All exit signs, lights, and means of egress lighting shall be done in accordance with Chapter 10, section & subsections 1023. & 1024. of the City's building code. (The BOCA National Building Code/1993)
- * 13. Stair construction in Use Group R-3 & R-4 is a minimum of 9" tread and 8-1/4" maximum rise. ~~All other Use Group minimum 11" tread, 7" maximum rise.~~
- * 14. Headroom in habitable space is a minimum of 7'6".
- * 15. The minimum headroom in all parts of a stairway shall not be less than 80 inches.
- * 16. All construction and demolition debris must be disposed at the City's authorized reclamation site. The fee rate is attached. Proof of such disposal must be furnished to the office of Inspection Services before final Certificate of Occupancy is issued or demolition permit is granted.
17. Section 25-135 of the Municipal Code for the City of Portland states, "No person or utility shall be granted a permit to excavate or open any street or sidewalk from the time of November 15 of each year to April 15 of the following year".
18. The builder of a facility to which Section 4594-C of the Maine State Human Rights Act, Title 5 MRSA refers, shall obtain a certification from a design professional that the plans of the facility meet the standards of construction required by this section. Prior to commencing construction of the facility, the builder shall submit the certification to the Division of Inspection Services.
19. This permit does not excuse the applicant from obtaining any license which may be needed from the City Clerk's Office.


P. Samuel Hoffses, Chief of Inspection Services

/el 3/16/95

Inspection Services
P. Samuel Hoffses
Chief



Planning and Urban Development
Joseph E. Gray Jr.
Director

CITY OF PORTLAND

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304 Woodford Street
Portland, ME 04102

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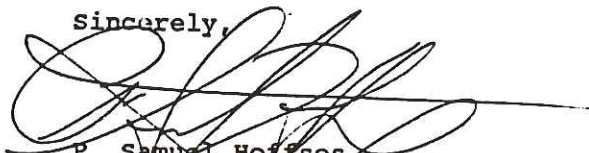
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1. Please read and implement items 1, 3, 7, 9, 10, 11, 13, 14, 15 and 16 of the attached building permit report.
2. The shoreland zoning setback variance shall be recorded in the Cumberland County Registry of Deeds to remain valid.

3. The attached shoreland zoning requirements shall apply to the contractor/developer and future owners as long as the property is with shoreland zoning area. M. Schmuckal

If you have any questions regarding these requirements, please do not hesitate to contact this office.

Sincerely,



P. Samuel Hoffses
C, Inspection Services

cc: M. Schmuckal, Acofi
M. O'Sullivan, DRC

RE: 67 Kingsmark Lane
226-A-013

SHORELAND ZONING REQUIREMENTS

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8/24/95



CITY OF PORTLAND
Planning and Urban Development Department

MEMORANDUM

TO: Kevin Carroll, Code Enforcement Officer

FROM: James Seymour, Acting Development Review Coordinator *JRS*

DATE: December 11, 1995

RE: Temporary Certificate of Occupancy for 67 Kingsmark Lane

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7. The applicant must submit a recorded plan showing setback reductions. The plan must be recorded at the Cumberland County Registry of Deeds as was made a condition on the Approval Letter dated August 9, 1995 from the Portland Planning Board. Plans must be submitted to the Planning Authority within 30 days.

cc: Kathi Staples PE, City Engineer



"We Have the Key to Your Future"

Office 871-9483

August 22, 1995

Attention Planning Department:
Portland City Hall
389 Congress Street
Portland, Maine

Re: 67 Kingsmark Lane
Portland, Maine

To whom it may concern:

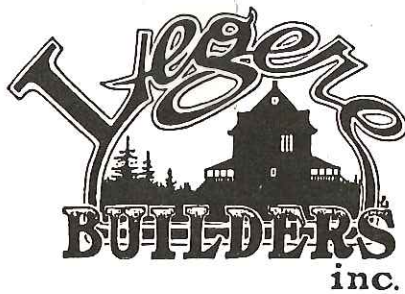
The City of Portland Planning department approved a shoreland set-back variance request on August the 8th meeting; with a contingency: that a remediation plan be set forth and determined prior to the building permit issuance.

To satisfy this contingency Legere Builders Inc. has met with Jeff Tarling per Michael O'Sullivan's guidance. On Friday, the 18th of August, Mr. Tarling and myself communicated with Mr. O'Sullivan the following remediation plan that Legere Builders Inc. agrees to follow and complete prior to the occupancy permit issuance. The following trees: 5- 5' White Pine, 3 - 5' Hemlock, 1- Red Maple 5' shade tree. Additional, a Conservation mix- grass blend with clover. This shall be installed on the disturbed area around the retainer wall if there is no rip rap or stone. I look forward to creating a new and attractive home to the City of Portland.

Sincerely

Randall P. Legere
President

CC MARGIE S.



"We Have the Key to Your Future"

Office 871-9483

August 22, 1995

Attention Planning Department:
Portland City Hall
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Sincerely,

Randall P. Legere
President

CITY OF PORTLAND, MAINE

PLANNING BOARD

Kenneth M. Cole III, Chair
Cyrus Hagge, Vice Chair
Joseph R. DeCoursey
John H. Carroll
Donna Williams
Jaimey Caron
Kevin McQuinn

August 9, 1995

Legere Builders
304 Woodford Street
Portland, ME 04102

RE: 67 Kingsmark Lane Setback Reduction

Dear Mr. Legere:

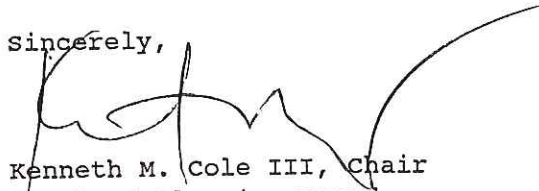
On August 8, 1995 the Portland Planning Board voted unanimously (7-0) to approve the reduction of the shoreland zoning setback requirement for the construction of a 36 ft. by 28 ft single family residence at 67 Kingsmark Lane. The approval was granted for the project with the following conditions:

- That no structure to be constructed outside a 60 ft distance as measured from the center of the front lot line.
- That after construction of the single family residence is complete, a 10 ft wide cleared area from the rear of the house be treated as a lawn area and the area outside this 10 ft wide area be restored to its natural vegetated state. The applicant shall show a restoration plan with a planting schedule prior to issuance of a building permit.
- That the applicant record the setback reduction in the Cumberland County Registry of Deeds.

This approval is based upon the submitted site plan and findings related to Shoreland Land use standards as contained in Planning Report #37-95.

If there are any questions, please contact the Planning Staff.

Sincerely,



Kenneth M. Cole III, Chair
Portland Planning Board

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development
Alexander Jaegerman, Chief Planner
P. Samuel Hoffses, Chief of Building Inspections
Marge Schmuckal, Zoning Administrator
George Flaherty, Director of Environmental/Intergovernmental Services
Kathi Staplès PE, City Engineer
Michael O'Sullivan, Development and Review Coordinator
William Bray, Deputy Director of Public Works
Jeff Tarling, City Arborist
Paul Niehoff, Materials Engineer
Natalie Burns, Associate Corporation Counsel
Lt. Gaylen McDougall, Fire Prevention
Mary Gresik, Building Permits Secretary
Kathleen Brown, Assistant Director of Economic Development
Approval Letter File

CITY OF PORTLAND, MAINE

PLANNING BOARD

Kenneth M. Cole III, Chair
Cyrus Hagge, Vice Chair
Joseph R. DeCoursey
John H. Carroll
Donna Williams
Jaimey Caron
Kevin McQuinn

TO RESIDENTS AND PROPERTY OWNERS IN THE VICINITY OF
67 KINGSMARK LANE

On Tuesday, August 8, 1995, the Portland Planning Board will consider a plan by Legere Builders for a proposed reduction of the shoreland zoning requirement for #67 Kingsmark Lane (Lot #8; Stroudwater Estates Subdivision). Zoning for this site is R-2 residential.

The meeting is a public hearing session and is scheduled to begin at 6:00 p.m. in Room 209, City Hall, 389 Congress Street, Portland, Maine. The workshop is an opportunity for the applicant to present a plan to the Planning Board in an informal session, which is open to the public. Public comments are not generally received at the workshop meeting. If you wish to submit written comments on the proposal, please address your comments to Joseph E. Gray, Jr., Director of Planning and Urban Development, City Hall, 4th Floor, 389 Congress Street, Portland, Maine 04101.

RK

Alexander Jaegerman
Chief Planner

Joe ~
Stroudwater is on a roll! Please
help our neighborhood to keep heading in
a positive direction & evaluate this
proposal in that light.

Thanks!
Jim Willey

REDUCTION OF SHORELAND ZONE SETBACK

67 KINGSMARK LANE
(LOT #8, STROUDWATER POINT SUBDIVISION)

JOHN BONETTI/RANDALL LEGERE, APPLICANT

Submitted to:

Portland Planning Board
Portland, Maine

August 8, 1995

I. Introduction

Mr. John Bonetti/Legere Builders requests a reduction of the setback requirement for a proposed single family residence at 67 Kingsmark Lane as allowed for in section 14-449 of the Land Use Code. This lot is Lot 8 of the Stroudwater Heights Subdivision approved by the Planning Board on October 6, 1987. The shore land regulation was put into effect June 15, 1992, after the subdivision was approved.

The applicant is requesting a reduction for the seventy five (75) foot requirements to forty (40) feet.

II. Background

Zoning:	R-2 Residential
Lot Size:	74,031 sq. ft. (1.7 acres)
Building Size:	28 ft. x 36 ft. with 10 ft. x 10 ft. deck
Surrounding Abutters:	Residential, Maine Audubon Society

III. Shoreland Zoning Review

The purpose of the shoreland zoning is to protect natural resources and regulate land use activities within a seventy five (75) feet, horizontal distance, of the normal high water line of a stream.

STANDARDS

1. Principal and Accessory Structures

The proposed single family residence is located within the seventy five (75) feet setback requirement. The applicant is requesting that the setback requirement be reduced to forty (40) feet. From the plans submitted, the proposed deck is forty-eight (48) feet. The proposed single family residence meets the building dimension requirement of twenty eight (28) feet.

2. Piers

This section does not apply to this development.

3. Clearing of Vegetation

The original Stroudwater Heights Subdivision site plan shows a protective zone on lot 8, see Attachment #5.

This protective zone was established to: 1) prevent the addition, removal or transfer of earth material, 2) a no cut zone within twenty five (25) feet of the property line and 3) selective cutting in the remaining protective zone.

Based upon a site inspection on Friday, August 4, 1995, it appears that the applicant did not cut any trees in the protective zone. The trees along the protective zone were flagged with yellow surveyor's tape. See Attachment #6.

4. Erosion and Sedimentation Control

The applicant has not submitted a written soil erosion and sedimentation control plan, but a silt fence is shown on the plans protecting the stream from any runoff from the construction activities.

on plans

5. Soils

The proposed single family residence appears to be compatible with the soils on site.

6. Water Quality

The proposed single family residence should not negatively impact the water quality of the stream.

7. Archaeological Site

The proposed single family residence is not adjacent to a site listed on the National Register of Historic Places.

8. Installation of Public Utilities

Public utilities will not install any services until the appropriate building permit has been issued by the City of Portland and will be required to submit written verification indicating that installation has been complete.

9/10. Driveway and Garage

The proposed driveway and garage for the single family residence partially fall within the seventy-five (75) setback requirement. The proposed garage is located in the basement at the single family residence.

11. Stormwater Runoff

The natural vegetation and trees in the protective zone will act as a buffer to the stormwater runoff from the proposed single family residence.

12. Agriculture

This section does not apply to this proposed development

IV. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and information submitted by the applicant and on the basis of information contained in Planning Report #37-95 the Planning Board finds:

1. That the Planning Board approve the reduction in the setback requirement for #67 Kingsmark Lane with the following conditions:
 - that the setback reduction be to 45 ft. versus 40 ft;
 - that the applicant record the setback reduction in the Cumberland County Registry of Deeds.
2. That the Planning Board disapprove the reduction in the setback requirement.

Attachments:

1. Site Plan for #67 Kingsmark Lane dated May 27, 1995
2. Maine Department of Environmental Protection Natural Resources Protection Act Application dated June 2, 1995
3. Division 26 Shoreland Regulations (Section 14-449; Paragraph (1)(a))
4. Planning Board Report #84-87 - Stroudwater Heights Subdivision Review
5. Site Plan for Stroudwater Subdivision dated September 23, 1987
6. Picture taken on-site on August 4, 1995
7. Steven and Shelly Stuart Carvel letter dated August 3, 1995

Permit by Rule

GENERAL NOTES

1. BOUNDARY INFO. HEIGHTS BY DEL.
2. TOPOGRAPHIC INFO. STROUDWATER HEIGHTS CHANGES ADJACEN.
3. DESIGN OF DRAINAGE ENTERPRISES, DE ENTERPRISES.
4. ALL CRITICAL ELEI BY THE BUILDOR THE BUILDER'S

Legend

- Found iron pipe or rod
- Property line
- - - Existing elevation contour
- - - 32 Proposed elevation contour
- 11 x 4 Existing spot elevation
- x 34 x Proposed spot elevation
- Drainage swale with Excelsior Erosion Control Blanket
- Silt fence
- Temporary Soil Stockpile Area
- PH-1 PHOTOGRAPH DESIGNATION SHOWING LOCATION AND DIRECTION OF VIEW

LOT 6
N/F
CARLAND
C. & GRENDA
(CARLAND)



EROSION CONTROL PROVISIONS

1. SILT FENCE SEDIMENT BARRIERS SHALL BE INSTALLED IN THE SWAMP PRIOR TO BEGINNING EARTHWORK.
2. EARTHWORK CONSTRUCTION AREAS SHALL BE STABILIZED WITH OR WITHOUT THE EXISTING GROUND COVER IN EACH RES. USING TEMPORARY MULCH OR PERMANENT VEGETATION, AS BELOW.
3. TEMPORARY MULCH: TEMPORARY HAY OR STRAW MULCH SHALL BE AT THE RATE OF 80 BALES PER ACRE. MULCH SHALL BE REPL. NEEDED TO MAINTAIN 90 PERCENT OR GREATER GROUND COV.
4. PERMANENT VEGETATION - SPREAD A MIXTURE OF LOAM AND RARE REFRANT WITH THE FOLLOWING:
 - a. APPLY GROUND LIMESTONE AT THE RATE OF 40 LBS. / 1000
 - b. APPLY 10-20-10 FERTILIZER AT THE RATE OF 80 LBS. PER 1000
 - c. APPLY THE FOLLOWING SEED MIX. BETWEEN THE DATES OF MAY 31 OR AUGUST 1 - SEPTEMBER 10.
 - (1) CREEPING RED FESCUE: 0.46 LBS. / 1000 S.
 - (2) TALL FESCUE: 0.46 LBS. / 1000 S.
 - (3) RED TOP: 0.08 LBS. / 1000 S.
 - d. FOR SEEDING FROM OCTOBER 15 UNTIL JUST BEFORE SNOW OF THE SEASON, OR FROM AFTER THE SPRING SNOW UNTIL APRIL 15, USE DOUBLE THE ABOVE SEED APPL. AS A PERMANENT SEEDING PROCEDURE. NO SEED SHALL BE TOP OF SNOW COVER.
5. EXCAVATED SOIL SHALL BE STOCKPILED ONLY IN AREAS DESIGNATED. A SILT FENCE OR HAY BALE SEDIMENT BARRIER SHALL BE INSTALLED ON THE DOWN HILL SIDE OF ALL STOCKPILES. TEMPORARY MULCH SHALL BE SPREAD AND MAINTAINED ON ALL STOCKPILES.
6. INSTALL EXCELSIOR EROSION CONTROL BLANKET (BY EROSION CONTROL INC.) OR EQUAL IN DRAINAGE SWALES AT LOCATIONS SHOWN. BLANKETS SHALL BE AT LEAST 40" WIDE, AND SHALL RUN IN THE SWALES.

GRADING, EROSION CONTROL, AND DRAINAGE PLAN
LOT 8, STROUDWATER HEIGHTS

BUILDER: LEGERE ENTERPRISES
304 WOODFORDS STREET
PORTLAND, ME 04103

OWNER: JOHN BONETTI
56 BROOKSIDE ROAD
PORTLAND, ME 04103

ENGINEER: MICHAEL FARMER
38 A STREET
SOUTH PORTLAND, ME 04106

DATE: MAY 27, 1985 SCALE: 1" = 20'

Department of Environmental Protection
Bureau of Land and Water Quality
State House Station 17
Augusta, Maine 04333
Telephone: (207) 287-2111

FOR DEP USE

L- _____
Total Fees: _____
Date: Received _____

APPLICATION FOR ALTERATION PERMIT

UNDER THE NATURAL RESOURCES PROTECTION ACT

Part I

Please type or print:

Name of Applicant: John B. Bonetti

c/o Legere Enterprises
Address: 304 Woodfords Street Telephone (Day): 871-9483

City: Portland State: ME zip: 04103

Name of local contact or agent: Randall Legere

Legere Enterprises
Address: 304 Woodfords Street Telephone: 207-871-9483
Portland, ME 04103

Type of project you are proposing, such as wetland fill, shoreline stabilization, maintenance dredging, etc.:

Construction adjacent to a stream

Name(s) of department staff person(s) previously contacted concerning this application:

none

If this application is a resubmission, please list the previous application number:

1. PROJECT LOCATION:

Nearest Road, Street, or Route Number: Kingsmark Lane

City/Town: Portland county: Cumberland

Waterbody or resource the project will be located in or adjacent to:

un-named stream, not shown on U.S.G.S.
7 1/2 minute quadrangle of "Portland West."

Provide exact directions to the project site. EXAMPLE: "Turn right off Route 202 Southbound; go 1/2 mile down Elm Street and take a left onto Fire Road #32. Take the third dirt road on the right, opposite utility pole #70A."

From Intersection of I-295 and Congress St. in Portland. Go west on Congress St. 1.4 miles to Westbrook St. (traffic light). Turn right on Westbrook St. and go 0.45 miles to Kingsmark Lane, on the right. Turn right onto Kingsmark Lane and go to the end of the cul-de-sac.

NOTE: If there are no identifying features on the lot, put up a temporary sign to help field investigators find the proper site. Avoid using local names for roads that are not clearly marked with signs at all times of the year. Include a sketch map showing the project location.

2. PROJECT HISTORY:

Has any part of this project been started without a permit? X YES NO

If yes, please describe and show on plans the area previously altered:

Some trees have been cut down in the construction area. No ground has been grubbed or graded.

If you have received a written notice of violation from the department for undertaking the project without a permit, please list the 7 digit enforcement file number (listed on the notice) and provide the name of the enforcement agent:

not applicable

Is this project part of a larger project? YES NO X

If yes, describe the larger project:

not applicable

3. ATTACHMENTS REQUIRED FOR ALL PROJECTS:

- ✓ A. Attach as **Exhibit 1**, a map with project location clearly marked. Acceptable maps are USGS topographical maps or other maps of similar detail such as the Maine Atlas or Gazetteer (clear photocopies are acceptable provided they are labelled with quad name or map number).
- ✓ B. Attach as **Exhibit 2**, photographs of the area to be altered which show vegetation and other landscape features. Photos should be mounted on an 8 1/2" x 11" sheet. The photographs must be labeled with location, photographer, and date taken. Original photographs must be attached to the original copy of the application. Legible photocopies of photographs are acceptable for the other 7 application copies.
- ✓ C. Attach as **Exhibit 3**, sale drawings (**overhead and side views, see examples in Appendix I**) of the project site which show the project in detail, including the following:
- _____ 1) The exact location of the waterbody, watercourse and/or wetland including normal high water and mean low water lines and/or wetland boundary;
 - _____ 2) Dimensions and exact location of the proposed project on the lot;
 - _____ 3) Location and dimensions of all existing structures on the lot and all existing structures on abutting lots within 50 feet of any proposed structure;
 - _____ 4) Proposed seasonal structure (a seasonal or temporary structure is a structure in place less than 7 months per year);
 - _____ 5) Location of all proposed erosion control measures;
 - _____ 6) Location and dimensions of property lines and names of abutters;
 - _____ 7) Scale of drawings (where an area of greater than 500 square feet is to be altered, drawings must be at a scale of at least one inch equals 100 feet and must show two foot contour intervals unless otherwise approved by the Department); and

THE DEPARTMENT HAS FOUND THAT A MAJOR CAUSE OF APPLICATIONS BEING RETURNED IS THE LACK OF PROPERLY PREPARED PLANS. ACCURATELY DETAILED PLANS ARE CRUCIAL TO EFFICIENT APPLICATION PROCESSING. IF YOU DO NOT POSSESS STRONG SKILLS IN DRAFTING PLANS, THE DEPARTMENT RECOMMENDS THAT YOU HIRE A CONSULTANT TO DO THE WORK FOR YOU.

NOTES: A) See sample drawings in Appendix I

B) Larger drawings are permissible, however, if drawings exceed 8 1/2" x 11" in size, seven (7) copies folded to 8 1/2" x 11" are required.

____8) If the project consists of a roadway or a dam, cross sections must be provided.

4. LOT INFORMATION:

A. Size of lot or parcel in square feet or acres: 74,031 S.F.

B. Do you: own ____ lease ____ have an option X or written agreement to use ____ the property? Yes

C. Attach as **Exhibit 4**, a copy of deed, lease, purchase agreement, or other legal documents establishing title, right or interest in the site, or list the deed reference numbers from the Registry of Deeds:

Book #: 8788 Page #: 306

D. List the map and lot number of the property from the town tax maps:

Map #: 226 Lot #: A-13

5. PROJECT INFORMATION:

A. Describe in detail the proposed project including dimensions of structures and areas to be altered. Include a statement as to why the project is needed.

See Item 5.A. - Attachment

(Use a separate or additional sheet if needed.)

B. What is the area of wetland or waterbody (below the normal high water line) in square feet that will be altered by the project? zero

C. If your project involves a freshwater wetland, indicate the wetland's classification(s) under the Wetland Protection Rules Chapter 310. n.a.

6. PROJECT CONSTRUCTION:

A. Describe how the project will be constructed. Include each step to project completion:

Erosion Control Devices will be installed prior to and during construction, per Exhibit 3

(Use a separate or additional sheet if needed.)

B. How will the project area be reached by equipment and vehicles required for construction (for example, by an existing road or path, through an area that will be cleared, etc.)? Describe how the area used for access will be repaired after the project completion:

Equipment will be reached the construction site via Kingsmark Lane, which is paved. All disturbed areas of the site will be revegetated.

C. Will the project require the clearing of any trees or other vegetative cover? YES NO

If yes, explain: Trees and ground vegetation will be removed from about 13,500 S.F. (18%) of the site.

D. If you are proposing to excavate soil, bulldoze or scrape the land or use fill, provide a description of what temporary and permanent measures will be taken to control erosion of disturbed or filled areas:

(1) Temporary measures: mulch and silt fence sediment barriers

(2) Permanent measures: Vegetation

Please refer to Exhibit 3 and item 5.A.

NOTE: All erosion control measures proposed must be shown on project plans as part of Exhibit 3 and must conform to the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, 1991.

E. If dredging is proposed:

1) What volume of material will be dredged or otherwise removed below the normal high water line? _____ cubic yards; below the mean low water line? _____ cubic yards

2) Describe how and where the dredged material will be utilized or disposed of. Include specifications for stabilizing the material to prevent erosion: _____

- 3) Describe the dredging operation and what measures will be taken to prevent sedimentation of surrounding waters: _____

NOTE: Upland Disposal of dredge spoils is subject to the Solid Waste Rules, Chapters 400-405. Spoils to be disposed of in an upland location must undergo physical and chemical testing as outlined in the Solid Waste Rules, 06-096 CMR 405.5. Spoils to be disposed of at an ocean disposal site must be tested in accordance with the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers' document "Guidance For Performing Tests on Dredged Material To Be Disposed of in Open Waters". The Department strongly recommends that applicants schedule a pre-application meeting with Department staff prior to submitting an application for dredging.

- 4) If dredged material is to be disposed of at an ocean disposal site:
- a. Attach as **Exhibit 5**, a map of the proposed transportation route to the disposal site.
 - b. Submit a copy of the application to all municipalities adjacent to the proposed transportation route.
 - c. Publish notice of the proposed transportation route in a newspaper of general circulation in the area adjacent to the proposed route.

NOTE: Notice of the proposed route must include compass bearings or Loran coordinates.

- 5) Attach as Exhibit 5A, a copy of the test results required for the proposed method of disposal.

7. INFORMATION CONCERNING THE FILING OF PUBLIC NOTICE

The Department of Environmental Protection requires that an applicant provide public notice in which he/she describes the project activity and where it is located. Three notices all using the same form (see Notice of Intent to File, page 15) are required. The notice requirements are as follows:

- 1. Newspaper - You must publish the Notice of Intent to File in a newspaper circulated in the area where the project is located. The notice must appear in the newspaper within 30 days prior to your filing the application with this Department.
- 2. Abutting Property Owners - You must send a copy of the Notice of Intent to File by certified mail to the

owners of property abutting the project. Their names and addresses can be obtained from town tax maps or local officials. They must receive notice within 30 days prior to your filing the application with this Department.

List below the names and addresses of the owners of abutting property (use additional sheet if necessary).

NAME

ADDRESS

See attached list.

3. Municipal Office - You must send a copy of the Notice of Intent to File and a DUPLICATE OF THE ENTIRE APPLICATION to the Municipal Office.

NOTE: The applicant shall use the Notice of Intent to File form on the next page or one containing identical information to notify abutters, municipal officials, and local newspapers.

NOTICE OF INTENT TO FILE

Please take notice that John B. Bonetti
c/o Legere Enterprises, 304
(Name, Address and Phone of Applicant)

Woodfords Street, Portland ME 04103

is intending to file a Natural Resources Protection Act permit application with the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. §§ 480-A through 480-V on or about June 1, 1995
(anticipated filing date)

The application is for _____
(state specifically what is to be done)

Construction near or adjacent to a regulated stream.

at the following location: Lot 8, Stroudwater Heights,
Kingsmark Lane, Portland, Cumberland County,
Maine
(project location)

A request for a public hearing or a request that the Board of Environmental assume jurisdiction over this application must be received by the Department, in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection. Public comment on the application will be accepted throughout the processing of the application.

The application will be filed for public inspection at the Department of Environmental Protection's office in (Portland, Augusta or Bangor) during normal working hours. A copy of the application may also be seen at the municipal offices in

Portland, Maine.
(town)

Written public comments may be sent to the Department of Environmental Protection, Bureau of Land and Water Quality, State House Station #17, Augusta, Maine 04333.

8. Signature:

By signing below, the applicant (or authorized agent) certifies that he or she has:

1. Sent by certified mail a completed copy of the Notice of Intent to File to the owners of the property abutting the land upon which the project site is located within thirty days prior to the filing of the application;
2. Sent by certified mail a completed copy of the Notice of Intent to File and filed a duplicate of this application with the town clerk or city clerk of the municipality(ies) where the project is located.
3. Published a Notice of Intent to File once in a newspaper circulated in the area where the project site is located within thirty days prior to the filing of the application;
4. If the project involves filling or dewatering greater than 20,000 square feet of Class I or Class II wetland, or 1 acre or more of Class III wetland; construction of expansions or new buildings on frontal dunes; new crossings of Outstanding River Segments as defined by 38 M.R.S.A. section 480-P; or federal consistency determinations pursuant to the Coastal Zone Management Act, has provided notice of and held a public informational meeting in accordance with Chapter 2, Rules Concerning the Processing of Applications, Section 8, prior to filing the application.
5. Authorized the Department and any reviewing agency personnel the Department has requested to enter the property to review the application.

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

DATE: June 09 1995

Legere Builders Inc.
Randall P. Legere, Pres.
SIGNATURE OF APPLICANT

IF SIGNATURE IS OTHER THAN APPLICANT ATTACH LETTER OF AGENT AUTHORIZATION

Randall P. Legere, President
PRINT NAME AND TITLE

NOTE: ANY CHANGES IN PROJECT PLANS MUST BE SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION IN WRITING AND MUST BE APPROVED BY THE DEPARTMENT PRIOR TO IMPLEMENTATION. FAILURE TO DO SO MAY RESULT IN ENFORCEMENT ACTION AND/OR THE REMOVAL OF THE PROJECT CHANGES.

EXHIBIT 1
LOCATION & AREA TOPOGRAPHIC MAP
SCALE: 1" = 2000'

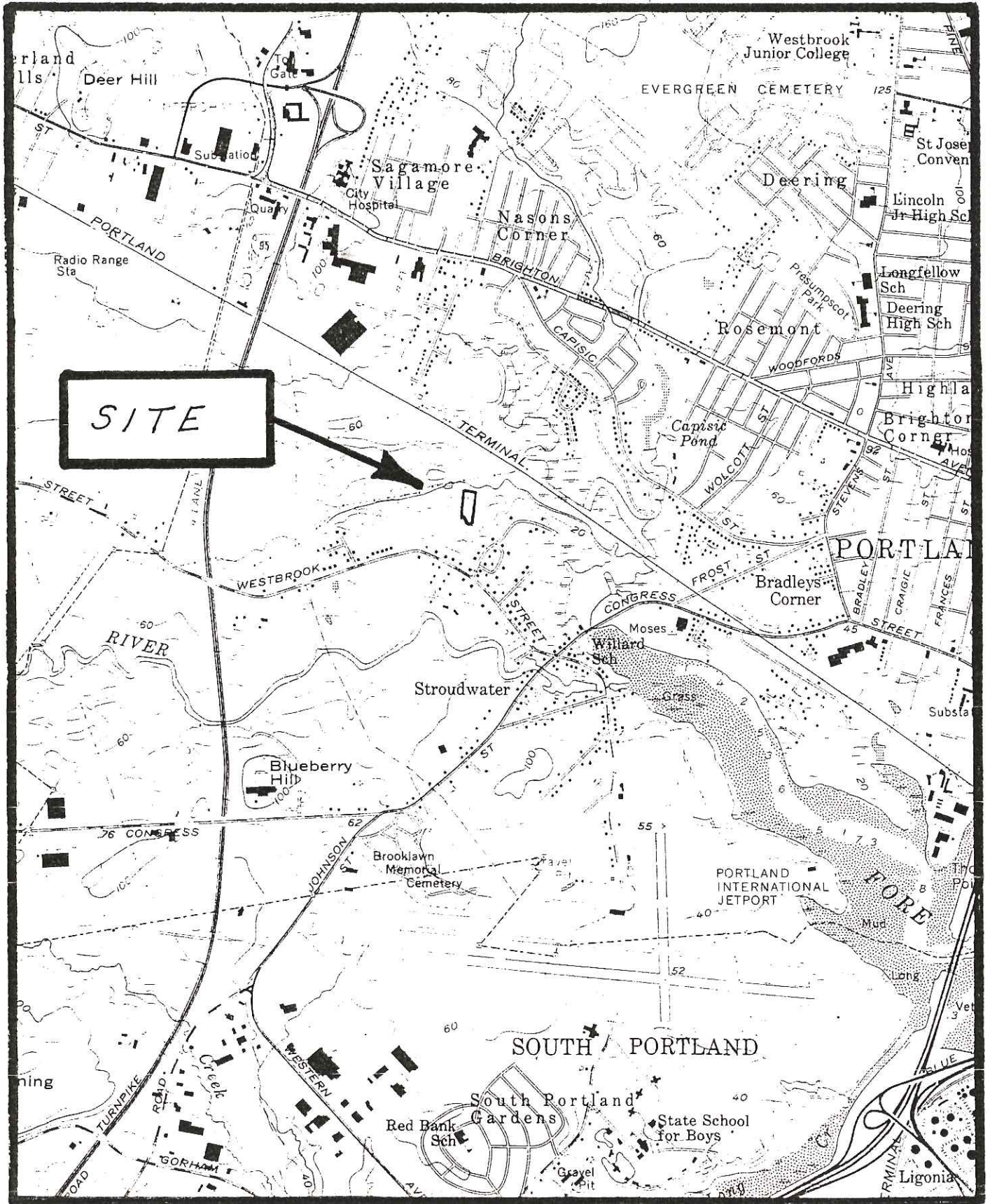
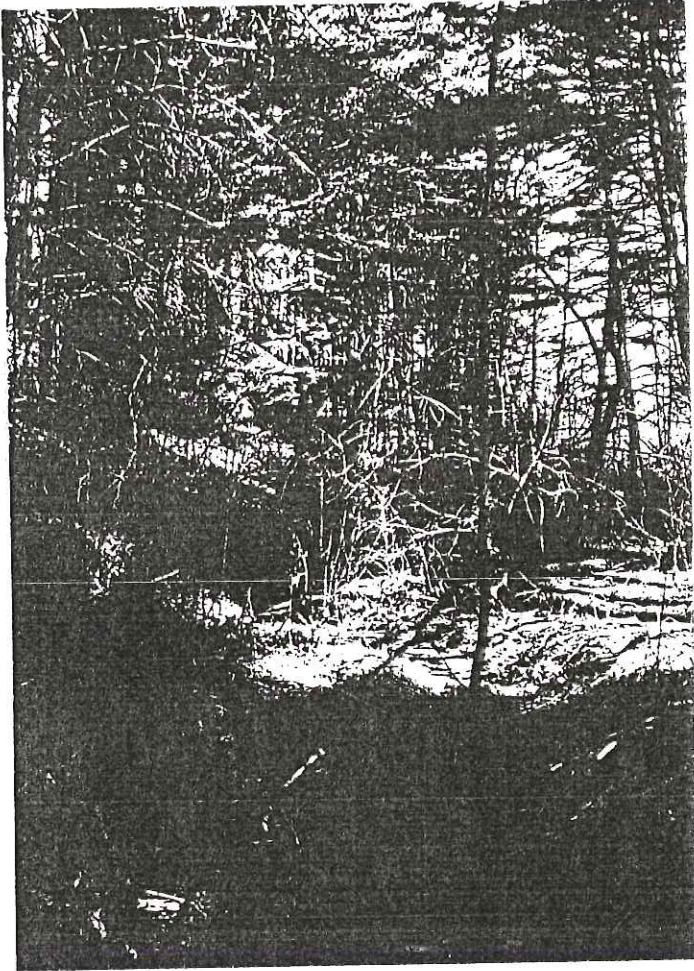
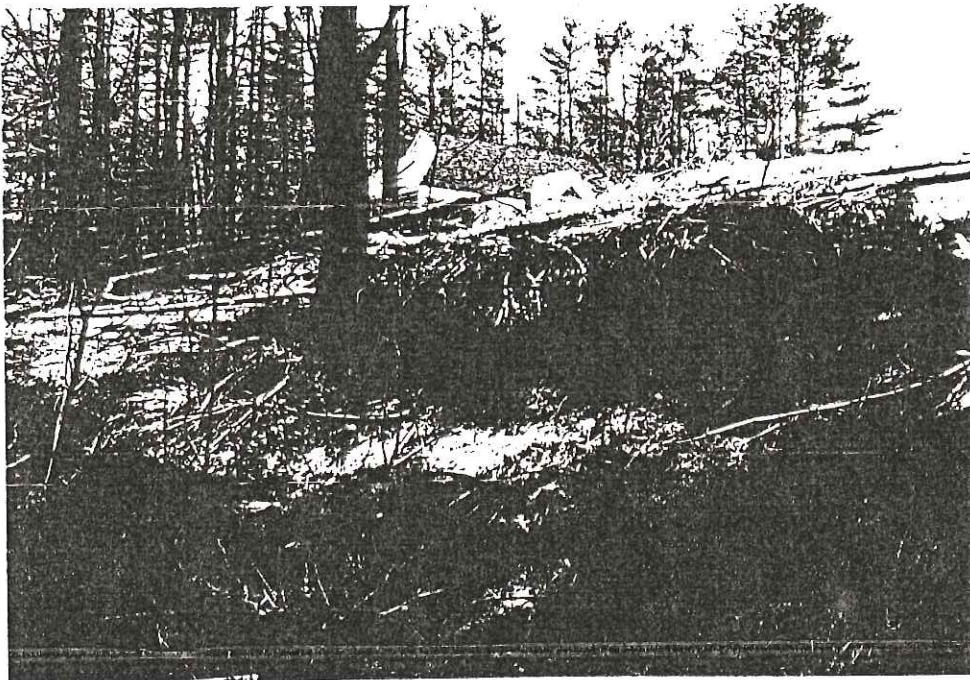


EXHIBIT 2
PHOTOGRAPHS OF SITE
PHOTOGRAPHER: MICHAEL FARMER
DATE: MAY 5, 1995



PH-1. UNNAMED STREAM
WHICH CROSSES SITE

PH-2. LOOKING UPHILL TO
CONSTRUCTION AREA. EDGE
OF CUL-DE-SAC FILL IS
VISIBLE AT UPPER RIGHT.



GRADING, EROSION CONTROL, AND
DRAINAGE PLAN
LOT 8, STROUDWATER HEIGHTS

BUILDER: LEGERE ENTERPRISES
304 WOODFORDS STREET
PORTLAND, ME 04103

OWNER: JOHN BONETTI
56 BROOKSIDE ROAD
PORTLAND, ME 04103

ENGINEER: MICHAEL FARMER
38 A STREET
SOUTH PORTLAND, ME 04106

DATE: MAY 27, 1995 SCALE: 1" = 20'

SHEET 1 OF 1

EXHIBIT 4

PURCHASE AND SALE AGREEMENT

AGREEMENT made this 2nd day of March, 1995, by and between GORHAM SAVINGS BANK (hereinafter "GSB"), with a principal office located at 64 Main Street, Gorham, Maine and John B. Bonetti of 56 Brookside Rd. Portland ME. 04103 (hereinafter "Buyer").

1. Property: GSB hereby agrees to sell, pursuant to the authority granted to it through the foreclosure action found in the Cumberland County Superior Court, Docket No. CV-93-692, and the Buyer hereby agrees to buy a certain lot or parcel of land with the buildings thereon, situated at Stroudwater Point, Portland, Maine, as more particularly described in Exhibit A attached hereto. Being a portion of the same premises mortgaged to GSB by Berma Partnership by Mortgage Deed dated July 8, 1992 and recorded in the Cumberland County Registry of Deeds in Book 10173, Page 335, this Mortgage Deed having been duly foreclosed by GSB.

2. Closing: Buyer and GSB agree to close this contract at the offices of Drummond & Drummond, One Monument Way, Portland, Maine, within forty-five (45) days, with Buyer delivering the balance of the purchase price to GSB no later than April 17, 1995.

3. Title: GSB agrees to convey its interest in the property by Quitclaim Deed Without Covenant to be delivered at closing subject to all existing easements, restrictions, encumbrances or other matters which may or may not be of record. Buyer acknowledges that the property is being sold "as is, where is" and that no representations are made by the Bank or its representatives as to the marketability or insurability of title.

EXHIBIT A

A certain lot or parcel of land with any buildings thereon situated in the City of Portland, County of Cumberland, State of Maine, being more particularly bounded and described as Lot 8, delineated on plan entitled "Recording Plat, Stroudwater Point, Kingsmark Lane, Portland, Maine," dated September 23, 1987, revised through December 15, 1987, made by Owen Haskell, Inc. and recorded in the Cumberland County Registry of Deeds in Plan Book 168, Page 28.

This conveyance is made subject to and with the benefit of the following items:

1. Terms and conditions noted on said Plan, including but not limited to the limitations imposed upon these portions of the above-described premises located in the "Protective Zone" as depicted on said Plan, those sewer and storm drainage easements affecting certain of the above-described premises, the pedestrian easement affecting certain of the above-described premises, and those drainage easements affecting certain of the above-described premises.

2. Terms and conditions of Declaration of Protective Covenants and Common Easements by Berma Partnership dated August 11, 1988, and recorded in said Registry of Deeds in Book 8425, Page 250.

3. Terms and conditions contained in the deed to Berma Partnership by Lawrence C. Butler dated December 23, 1987, and recorded in said Registry of Deeds in Book 8119, Page 251.

4. Terms and conditions contained in an Easement Deed from Berma Partnership to Central Maine Power Company and New England Telephone and Telegraph Company dated May 24, 1988 and recorded in the Cumberland County Registry of Deeds in Book 8444, Page 227.

5. Rights and easements granted to Central Maine Power Company as set forth in instrument dated August 23, 1956 and recorded in said Registry of Deeds in Book 2326, Page 190.

6. Terms and conditions of an agreement between Berma Partnership, Bryan L. and Allison Beck and Gerald S. and Jacqueline Robinov dated July 7, 1988 and recorded in said Registry of Deeds in Book 8425, Page 260.

7. Rights and easements granted to Portland Water District as set forth in instrument dated August 29, 1988

Legere Builders, Inc.

304 Woodfords Street
Portland, Maine 04102
(207) 871-9483

Proposal

Page 1

Proposal submitted to: **John B. Bonetti and Vickie W. Sans**

Phone: 772-7302

Date:

4/19/95

Job Name:

Street:
56 Brookside Rd.

City, State, Zip Code
Portland, Maine

Job Location: Lot 8
Stroudwater Subdv.

The following items are the specifications on one 28' x 36' Colonial Home to be built:

Framing Material:

- 2 x 10 floor joist, first and second floor, 16" OC.
- 2 x 6 KD exterior 7'3" pre-cuts, 16" OC.
- 2 x 4 KD interior 7'3" pre-cuts, 16" OC.
- 2 x 6 KD interior wall between the garage and the basement.
- 2 x 8 rafters on the roof.
- 2 x 6 collar ties, 32" OC.
- 1 x 3 spruce strapping, 16" OC.
- 2 x 6 PT sill with sill seal.
- 1 x 3 spruce bridging.
- 2 x 12 roof ridge.
- 2 x 12 first floor girder.
- 2 x 4 ledger.
- 2 x 12 stair stringers.
- Steel beam to be engineered for the garage center girder.
- 2 x 12 girder with no post over the family room area.

- Heart Pine Floor Joist
- Cold Frame - NOT
- Brass or aluminum
- Paint - eggshell

Roofing Material:

- 4 x 8 1/2" CDX with clips.
- 20 Year Bird Moire Black Asphalt 3 tab Shingles.
- Colbra ridge vent.
- 1 Gable louvre vent.
- 8" galvanized drip edge.

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance.

Authorized Signature: Randall W. Ferraro, Pres This proposal may be withdrawn by us if not accepted within 1 days.

ACCEPTANCE OF PROPOSAL. The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: April 19, 1995

Signature: John Bonetti

Signature: Vickie W. Sans

ITEM 5A - ATTACHMENT

Legere Enterprises, a home building contractor, has been hired by John Bonetti to build a single family residential home on Lot 8 of Stroudwater Heights subdivision in the Stroudwater section of Portland. The proposed house would have a foot print of 28 ft. by 36 ft. The total disturbed would be approximately 75 ft. by 180 ft., or 13,500 square feet.

The construction site is located on relatively steep slopes near a stream. No alteration of, or construction in, the stream or its flood plain wetlands is proposed. The erosion control plan, described on Exhibit 3, is intended to protect the stream and its flood plain wetlands from the harmful effects of erosion.

The house lot is located at the end of the recently constructed cul-de-sac on Kingsmark Lane. This street has a sidewalk and granite curbing, which drain onto the street, and into an existing underground drainage system. This drainage feature is helpful for erosion control purposes at the construction site. Runoff from the uphill side of the site will be is diverted around the disturbed area.

LIST OF ABUTTING PROPERTY OWNERS

1. William C. Black and Jacqueline Potter
66 Stroudwater Road
Portland, ME 04102
2. Li L. Chen
64 Kingsmark Lane
Portland, ME 04102
3. John C. and Brenda J. Carland
59 Kingsmark Lane
Portland, ME 04102
4. Steven H. and Shelly S. Carvel
66 Stroudwater Road
Portland, ME 04102
5. Portland Water District
225 Douglas Street
Portland, ME 04104

can show that there will be no development within the setback required by the zoning ordinance on adjacent property which abuts the area for which a reduced setback is sought. The applicant will demonstrate compliance with the above requirement by providing an affidavit from the abutting property owner stating that the area in question will never be developed. Reduced setbacks will not be permitted when the area proposed for such setbacks abuts either city or state owned property. No setback reduction may be granted which would permit any structure on the lot which is the subject of the application to be within fifteen (15) feet of any existing residential structure on an adjacent lot.

(b) Recording of setback reduction. The zoning administrator shall provide a signed instrument in recordable form, indicating any setback reduction granted under the terms of this section. The applicant for such reduction shall be responsible for recording this instrument in the Cumberland County Registry of Deeds. The abutter's affidavit will also be recorded. (Ord. No. 139-93, 11-15-93)

Secs. 14-439—14-445. Reserved.

DIVISION 26. SHORELAND REGULATIONS

Sec. 14-446. Purposes.

The purposes of this division are to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect fish spawning grounds, aquatic life, bird and other wildlife habitat; protect buildings and lands from flooding and accelerated erosion; protect archaeological and historic resources; protect commercial fishing and maritime industries; protect freshwater and coastal wetlands; control building sites, placement of structures and land uses; conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty, as appropriate in an urbanized environment; and to anticipate and respond to the impact of development in shoreland areas.

(Code 1968, § 602.19A.A; Ord. No. 499-74, § 10, 8-19-74; Ord. No. 15-92, § 27, 6-15-92)

Sec. 14-447. Applicability.

This division applies to all land areas, uses, structures and land use activities within two hundred fifty (250) feet, horizontal distance, of the normal high water line of any river or saltwater body; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream. This division also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high water line of a water body or within a wetland.

(Code 1968, § 602.19A.B; Ord. No. 499-74, § 10, 8-19-74; Ord. No. 15-92, § 28, 6-15-92)

Sec. 14-448. Zoning districts and shoreland regulations.

The regulations and controls of this division apply to all land areas, uses, structures and land use activities cited in section 14-447, in all zones of the city.

(Code 1968, § 602.19A.C; Ord. No. 499-74, § 10, 8-19-74)

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(1) *Principal and accessory structures:*

- a. All principal and accessory structures shall be set back at least seventy-five (75) feet from the normal high water line of water bodies, tributary streams, or the upland edge of a wetland, except that in the following zones the setback shall be as indicated:
 - i. B-3: Twenty-five (25) feet.
 - ii. W-1, W-2, O-B, I-3b: No setback required.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the planning board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28) feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, W-1, W-2, I-B and I-3b zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such struc-

tures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

- b. The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one (1) foot above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
- c. Notwithstanding the requirements of this section, stairways or similar structures may be allowed with a permit from the building authority to provide shoreline access in areas of steep slopes or unstable soils, provided that:
 - i. The structure is limited to a maximum of four (4) feet in width;
 - ii. The structure does not extend below or over the normal high water line of a water body or upland edge of a wetland, unless permitted by the department of environmental protection pursuant to 38 M.R.S.A. Section 480-C; and
 - iii. The applicant demonstrates that no reasonable access alternative exists on the property.

(2) *Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high water line of a water body or within a wetland:*

- a. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion;
- b. The location shall not interfere with existing developed or natural beach areas;
- c. The facility shall be located so as to minimize adverse effects on fisheries;
- d. The facility shall be no larger in dimension than necessary to carry on the activity and shall be consistent with existing conditions, use and character of the area;
- e. Except in the W-1, W-2, I-B and I-3b zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;
- f. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high water line of a water body or within a wetland shall be converted to residential dwelling units in any zone.

(3) *Clearing of vegetation:*

- a. In all shoreland areas in resource protection zones, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.
- b. In all other areas, a buffer strip of vegetation shall be preserved, except where clearance is required for development of permitted uses, within a strip of land

extending seventy-five (75) feet, horizontal distance, from any water body, tributary stream, or the upland edge of a wetland, in accordance with the following:

- i. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy as measured from the outer limits of the tree crown. Notwithstanding this limitation, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
- ii. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees and other vegetation" adjacent to a water body, tributary stream or wetland shall be defined as maintaining a minimum rating score of eight (8) or more in any twenty-five-foot by twenty-five-foot square area as determined by the following rating system:

<i>Diameter of tree at four and one-half (4½) feet above ground level (Inches)</i>	<i>Points</i>
2-4	1
Greater than 4-12	2
Greater than 12	4

Notwithstanding the above provisions, no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter, measured at four and one-half (4½) feet above ground level may be removed in any ten-year period.

- iii. Pruning of tree branches on the bottom one-third of the tree is permitted.
- iv. Where the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in subsection b. of this section shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas in these locations shall be limited to the minimum amount necessary.

- c. Selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured four and one-half (4½) feet above ground level, shall be permitted within any ten-year period at distances greater than seventy-five (75) feet, horizontal distance, from the normal high water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent

calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate twenty-five (25) percent of the lot area, including land previously developed.

- d. Cleared openings legally in existence on June 15, 1992, may be maintained but shall not be enlarged, except as permitted by this division.
- e. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

(4) *Erosion and sedimentation control:*

- a. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan in accordance with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection of Portland Technical and Design Standards and Guidelines. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - i. Mulching and revegetation of disturbed soil.
 - ii. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - iii. Permanent stabilization structures such as retaining walls or riprap.
- b. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- c. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed ground area at every phase of construction shall be minimized to reduce the potential for erosion.
- d. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine (9) months of initial exposure. The following standards shall also be met:
 - i. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - ii. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

- iii. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 - e. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in accordance with the City of Portland Technical and Design Standards and Guidelines.
- (5) *Soils*: All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, either during or after construction. Proposed uses requiring subsurface wastewater disposal and commercial or industrial development or other similar intensive land uses shall require a soils report based on an on-site investigation and prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- (6) *Water quality*: No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body.
- (7) *Archaeological sites*: Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the department of planning and urban development, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the building authority. The building authority shall consider comments received from the commission prior to rendering a decision on the application. Such sites shall also comply with all applicable provisions of article IX of this chapter.
- (8) *Installation of public utility service*: No public utility of any kind shall install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this Code has been issued by the appropriate municipal authorities. Following installation of service, the public utility shall forward the written authorization to the appropriate municipal authorities, indicating that installation has been completed.

- (9) *Roads and driveways:* Except in the W-1, W-2, and I-3b zones where setbacks shall be the same as those established in subsection (1)a.ii. and iii. of this section for structures, roads and driveways shall be set back at least seventy-five (75) feet from the normal high water line, unless the planning board determines that no other reasonable alternative exists. Where the planning board makes a determination that no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.
- (10) *Parking areas:* All parking areas shall be set back a minimum of seventy-five (75) feet, except in the W-1, W-2, I-3b, and S-P zones, where setbacks shall be as established for structures in those zones, and in the R-OS, I-B, and I-2 zones, where parking areas shall be set back a minimum of twenty-five (25) feet from the normal high water line, unless the planning board determines that no other reasonable alternative exists. Where the planning board makes a determination that no other reasonable alternative exists, the planning board may reduce the parking setback requirement in the R-OS, I-B and I-2 zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.
- (11) *Stormwater runoff:*
- a. All new construction and development shall be designed to be in compliance with the City of Portland Technical and Design Standards and Guidelines to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.
 - b. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.
- (12) *Agriculture:*
- a. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July, 1972.
 - b. Manure shall not be stored or stockpiled within seventy-five (75) feet, horizontal distance, of water bodies, tributary streams, or wetlands. Within five (5) years from the effective date of this section, all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the five-year period.

- c. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a soil and water conservation plan to be filed with the building authority.
 - d. There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from water bodies or within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands when such new tilling, by itself or combined with all other contiguous tillage, shall exceed forty thousand (40,000) square feet in surface area. Operations in existence on the effective date of this section and not in conformance with these provisions may be maintained by shall not be expanded. When the new tilling, by itself or combined with all other contiguous tillage, shall total forty thousand (40,000) square feet or less, the tillage shall be set back a minimum of twenty-five (25) feet from all water bodies, tributary streams or wetlands.
 - e. Livestock grazing areas established after the effective date of this section shall not be permitted within seventy-five (75) feet, horizontal distance, of water bodies or within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with farm activities commenced prior to the effective date of this section shall be allowed to continue provided that such activity is conducted in accordance with a soil and water conservation plan filed with the building authority.
- (13) *General site plan features:* The planning board or planning authority shall approve a site plan located within a shoreland zone if it finds that the following standards, in addition to the standards set forth in section 14-526, are met:
- a. The proposal will maintain safe and healthful conditions;
 - b. The proposal will not result in water pollution, erosion, or sedimentation to surface waters;
 - c. The proposal will adequately provide for the disposal of all wastewater;
 - d. The proposal will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - e. The proposal will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
 - f. The proposal will protect archaeological and historic resources;
 - g. The proposal will not adversely affect existing commercial fishing or maritime activities;
 - h. The proposal will avoid problems associated with flood plain development and use; and
 - j. The proposal is in conformance with the standards set forth in this section.
- (Code 1968, § 602.19A.D; Ord. No. 499-74, § 10, 8-19-74; Ord. No. 38-85, § 1, 7-15-85; Ord. No. 15-92, § 29, 6-15-92)

ATT4

PLANNING REPORT #84-87

PLANNING DEPARTMENT REPORT

STROUDWATER HEIGHTS

SUBDIVISION REVIEW, FLOOD HAZARD REVIEW AND STREET VACATION

BERMAN ASSOCIATES, APPLICANT

Submitted to:

Portland Planning Board
Portland, Maine

October 6, 1987

I. INTRODUCTION

Richard Berman Associates is requesting review of a 21-lot subdivision in the vicinity of Kingsmark Lane and Stroudwater Road. The development is in the R-2 Residential zone. The applicant is seeking vacation of 5 streets in conjunction with subdivision approval. The Subdivision Plan and Vicinity map are included as Attachments 1 and 2.

84 notices have been mailed to area residents and property owners. In addition, a legal advertisement was published in both editions of the Guy Gannett Newspapers. Letters from area residents regarding the project are included as Attachment 3.

II. SUMMARY OF FINDINGS

ZONING	R-2 Residential
LAND AREA	13.65 acres
NUMBER OF LOTS	21 proposed; 47 lots estimated maximum
MINIMUM LOT SIZE	10,000 square feet
LOT SIZES	Ranging from 12, 262 sq. ft. to 74,030 sq. ft.
LAND USES	Single family residential and resource protection

III. STAFF REVIEW

The proposal has been reviewed for subdivision and flood hazard area compliance. Review and approval has been completed by the Departments of Planning and Urban Development, Parks and Public Works and Fire. The comments of those departments are contained in this report.

IV. SUBDIVISION REVIEW

1. Water and Air Pollution

The proposal will not cause undue air or water pollution. As a residential development utilizing public sanitary and water facilities, it is not anticipated that the subdivision will have an undue adverse effect on the environment.

2/3. Water

The project will be served by an 8 inch water main in Kingsmark Lane and Spar Lane. A letter from the Portland Water District attesting to adequate capacity to serve the development is included as Attachment 4.

4. Soil Erosion

An erosion and sedimentation control plan has been submitted and approved. The plan calls for the use of hay bales, silt fencing, and the construction of a sedimentation pond in the areas of lots 20 and 21 to collect sediment from water runoff. The erosion and sedimentation control plan includes a proposed Protective Zone to be established by deed covenant and referenced on the recording plat and modifications suggested by a separate review by the Cumberland County Soil and Water Conservation District.

The Protective zone occurs in lots 4-16, 18, and 21. This zone includes some of the most significant slopes on the site, as well as buffers the abutting Stroudwater Sanctuary and the Blackburnian Pines Subdivision. Inside the protective zone, there will be no cutting and filling of slopes. Tree removal will be restricted to (1) removal of 33% of trees between 3-6 inches in diameter over a 10 year period, and (2) removal of 10% of trees between 6-12 inches in diameter over a 10 year period. Additionally, no trees, living or dead, will be removed within 25 feet of the property line bordering the Stroudwater Sanctuary and no construction machinery or equipment will be allowed in the 25' protective zone area adjacent to the Blackburnian Pines Subdivision. These restrictions were developed to prevent erosion of significant slopes on the site and in response to neighborhood concerns. The Protective zone reduces the buildable area of the effected lots by excluding construction on the most sensitive slopes. The deed covenants pertaining to the Protective zone are included as Attachment 5.

At the request of City Staff, the Soil Conservation Service (SCS) also reviewed the erosion and sedimentation control plans for the site. SCS recommended additional erosion control techniques such as the use of filter fabric, stone water checks, and mulch hay. The applicant has incorporated the SCS recommendations into the subdivision plan. Attachment 6 (a and b) are the comments of the Soil Conservation Service.

Mr. Robert Roy, Planning Engineer, has reviewed the plan. His comments are included as Attachment 7.

5. Traffic

The applicant will be removing a shrub and tree limbs to improve sight distance from Kingsmark Lane onto Westbrook Street. Kingsmark Lane and Spar Lane will be built to City standards with granite curbing and sidewalk on one side. The applicant is requesting a waiver of sidewalk on one side of Kingsmark and Spar Lanes and a waiver of curbing for lot 7 fronting on Stroudwater Road, which does not have granite curbing.

Additionally, lots 19, 20, and 21, which have frontage on 2 streets, will only have access to Spar Lane.

Mr. William Bray, City Traffic Engineer, has reviewed the plan. He is withholding approval of the plan until there is agreement to remove a tree impairing sight distance to the left on Westbrook Street. His comments are included as Attachment 8.

Mr. Robert Roy, Planning Engineer, has requested as a condition of approval:

- That a sidewalk be constructed on the easterly side of Kingsmark Lane from Westbrook Street to the sidewalk proposed within the project.

6. Sanitary/Stormwater

The sanitary system includes an 8 inch sanitary sewer line in both Kingsmark Lane and Spar Lane. The lines connect in the Kingsmark Lane cul-de-sac and connect to the Upper Fore River Interceptor by way of a sewer easement between lots 8 and 9.

The areas in the Protective zone will handle stormwater through natural drainage channels. Those sections of the lots that will be developed will drain to the street into a stormdrain line. The Spar Lane stormdrain connects to Kingsmark Lane through an easement between lots 20 and 21. The 18" stormdrain line runs in the easement between lots 8 and 9 and discharges into the Oxford/Cumberland Canal. Three stone water checks will be installed to slow the water entering the canal to prevent erosion. Lot 7 will also drain into a natural drainage channel into the Canal. The applicant has proposed foundation drains where necessary and a note on the recording plat requires that lots 5-12 and 21 submit a site plan showing grading, slope treatment, and erosion control for planning staff review. The applicant has also responded to a list of questions prepared by the Stroudwater Neighborhood Association, which is included as Attachment 9.

Mr. Robert Roy, Planning Engineer, has reviewed and approved the plan. He requests as a condition of approval:

- That executed deeds for the sewer and drainage easements be submitted for Corporation Counsel approval.

His comments are included as Attachment 7.

7. Solid Waste

Solid Wastes are to be serviced by municipal trash collection. No adverse effects are anticipated as a result of this development.

8. Scenic or Natural Beauty

The proposal will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic site or rare or irreplaceable natural areas. The proposed Protective zone will leave a significant amount of the site relatively undisturbed. Additionally, the applicant will be preserving or providing a minimum of 2 street trees per lot.

Ms. Carmela Barton, City Arborist, has reviewed and approved the plan.

9. Financial and Technical Capability

A potential condition of approval is:

- That a letter be submitted by the applicant attesting to financial capability.

10. Shoreland

The project is not located within 250 feet of the shoreland zone.

11. Access

The development includes a 20' access easement - between lots 11 and 12 to get to Maine Audubon Society Sanctuary for use by the Subdivision.

IV. FLOOD HAZARD REVIEW - SECTION 14-450.8

1. Reduction in Flood Carrying Capacity of Water Course

No reduction in the flood carrying capacity of a water course is proposed with this development.

2. Reasonably Safe from Flooding

There are no structures proposed in or near the flood hazard area.

3. First Floor Elevation of Residential Structures

No structure is proposed at this time. Building permits for lots within the flood hazard zone will undergo flood hazard area review.

4. First Floor Elevation of Nonresidential Structures

No structure is proposed at this time.

5. Parking Structures

No enclosed parking structures are proposed as part of this development.

6. Manufactured Homes

No manufactured homes are proposed as part of this development.

V. **STREET VACATION**

The applicant is concurrently seeking vacation of 5 papers streets which exist in the subdivision. Attachment 10 shows the streets to be vacated. Mr. William Boothby, acting as City Engineer, has determined the City has no interest in the streets to be vacated. The applicant has prepared documentation for vacation which has been approved by Corporation Counsel. Action by the Planning Board on the vacations is advisory and the applicant will be proceeding to the City Council.

VI. **MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and the findings of this Board reflected in the information provided in Planning Report #84-87 relevant to standards for subdivision and flood hazard review, and street vacation and/or other findings as follows:

The Board finds that:

1. That the vacation of Coolidge, Hays, Harding, Weeks and Underwood Streets be recommended to the City Council. *unanim*
2. That the plan is in conformance with the subdivision standard of the Land Use Code. *approved and*

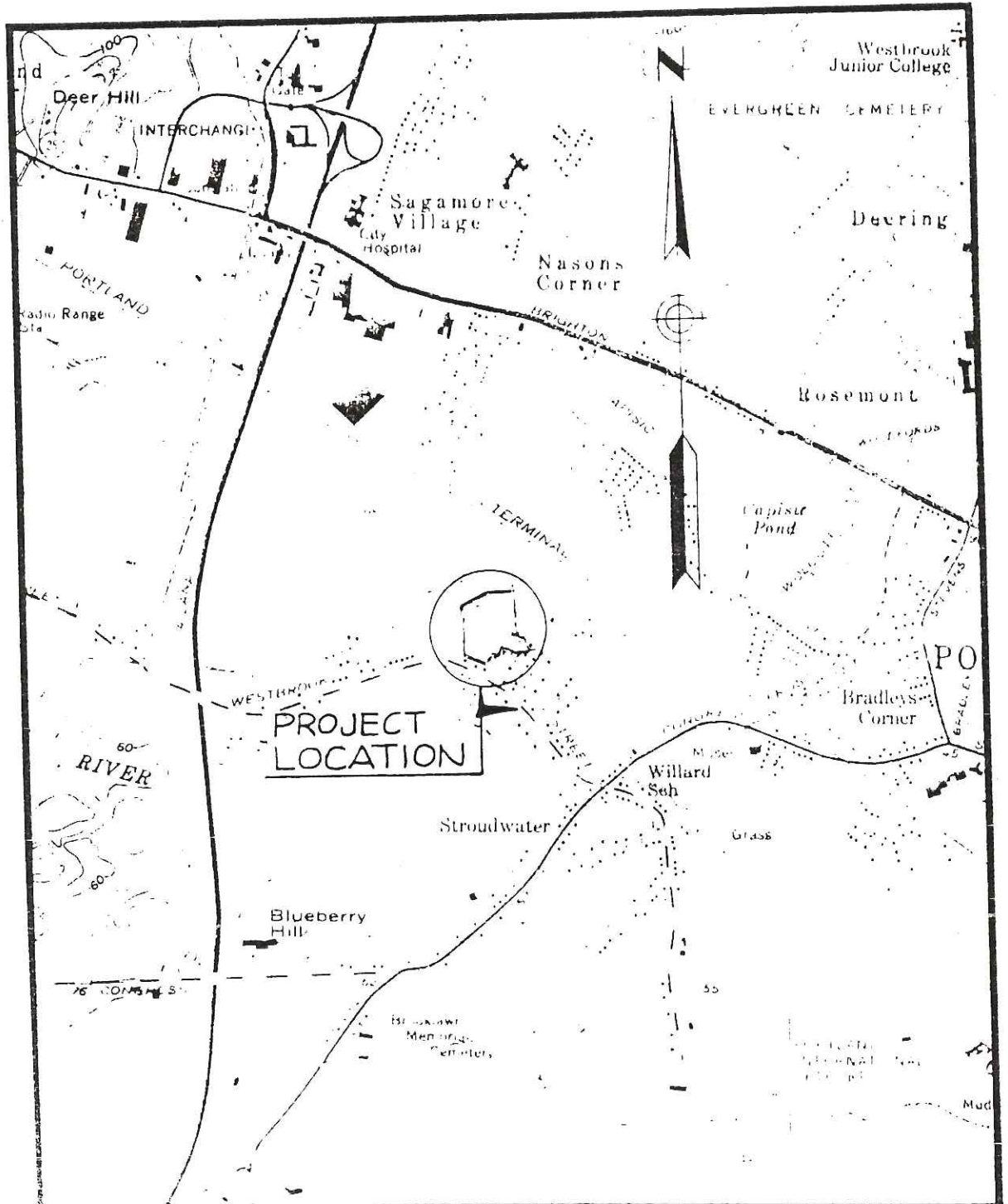
Potential Conditions of Approval

- a. That a letter be submitted by the applicant attesting to financial capability.
 - b. That a sidewalk be constructed on the easterly side of Kingsmark Lane from Westbrook Street to the sidewalk proposed within the project.
 - c. That executed deeds for the sewer and drainage easements be submitted for Corporation Counsel approval. *unanim*
3. That the plan is in conformance with the Flood Hazard Area Standards of the Land Use Code. *unanim*

unanim waiver of curbing

Attachments

1. Subdivision Plan
2. Vicinity map
3. Public comments
4. Portland Water District Letter
5. Protective Zone Deed Covenants
6. SCS comments
7. Planning Engineer Comments
8. Traffic Engineer's Comments
9. Response to Neighborhood questions
10. Map of streets to be vacated.
11. Acting City Engineer's Comments



LOCATION MAP

Sept 13, 1987

Joe Gray
Director Planning & Urban Development
Portland, Me

Dear Mr. Gray,

On behalf of the abuttor to the
Stouckwater Hwy, its subdivision, I would like to
make a formal request that planning board
members walk the site. Public hearing is
September 29.

Thank you,

Sincerely

Byron H. S. Abuttor

Attachment 3b
Sept. 23, 1987

Mr. Joe Gray
Director, Planning and Development
City Hall
Portland, Maine

Dear Mr. Gray:

My wife, Allison, and I are abutters to "Stroudwater Heights", a proposed development scheduled for the public planning board hearing, Oct. 6, 1987.

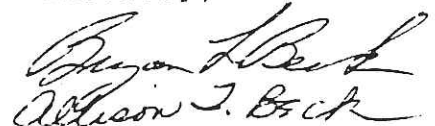
For the past couple of months we have been actively involved in discussions regarding this project. In addition to several abutters meetings and Stroudwater Improvement Association meetings; we have also met several times with Maureen O'Meara (planning staff) and Richard Berman, the developer. We have also met Bob Roy, (city engineer), and discussed our concerns. We feel that a lot of improvements have been proposed and many are still being discussed.

The public hearing, which has been postponed twice, is now scheduled for Oct. 6. Each time the arrangements I made had to be cancelled. The week of Oct. 6th, my wife and I will be out of town and not able to attend. We are unable this time to change our commitments.

We are extremely interested in this project since we will immediately abut four of the proposed 23 lots. We feel that we have worked hard at trying to help improve this project and that our property and home will be greatly effected by its outcome. Therefore, we would like to ask the Planning Board to postpone its review of the proposed subdivision until the next public hearing so that we would be able to participate in it.

Thank you for your time and consideration.

Sincerely,



Dr. and Mrs. Bryan L. Beck
21 Buttonwood Ln.
Portland, Maine 04102

cc: Arthur Dingley, Pres. S.I.A.
Maureen O'Meara, Planning Board Staff

William C. Black
Jacqueline Potter

15 Lewis Street
Portland, Maine 04102

September 27, 1987

Mr. Jack Humeniuk, Chairperson
Ms. Barbara Vestal, Vice- Chairperson
Portland Planning Board
Portland City Hall
389 Congress Street
Portland, Maine 04102

Reference: Stroudwater Heights Subdivision
Richard Berman, Developer
Hearing Date: October 6, 1987

Dear Mr. Humeniuk and Ms. Vestal:

We request that the Portland Planning Board visit the site at which Richard Berman and Mr. Plummer are proposing to create the 21-lot Stroudwater Heights subdivision.

We are presently building a house on property that abuts the proposed subdivision. We are concerned about a number of effects that the subdivision will have on the neighborhood.

First, the density of the subdivision, even with "only" 21 lots, will have an unduely adverse effect on the natural beauty of the Stroudwater neighborhood. If two roads and 21 lots are allowed, Stroudwater will lose an irreplaceable natural area.

We recognize that Mr. Berman and Mr. Plummer have the right to develop their property. But the quality and density of the development should be such that it does not substantially alter the character of the neighborhood.

Secondly, we have concerns about the impact that two roads and 21 lots will have on the amount of water that must drain off the Berman/Plummer property. Already the properties on the other side of Westbrook Street drain across the property. The clearing and filling necessary for two roads and 21 lots will only increase the drainage burden.

We believe that the Planning Board Should visit the site and assess the effects that high density and drainage will have on the property and the Stroudwater neighborhood.

Sincerely,

Jacqueline Potter, William C Black

LARRY A. PLOTKIN
32 BUTTONWOOD LANE
PORTLAND, MAINE 04102

September 23, 1987

Mr. Joseph Gray
Planning Director
City Hall
Portland, ME 04102

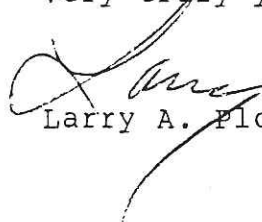
Dear Joe:

This is to express my opposition to the Stroudwater Heights proposal of the F. S. Plummer Company. While I am a strong believer in the rights of individuals to develop their property, the F. S. Plummer proposal creates a housing density not seen in other recent Stroudwater developments. Due to the topography of the land combined with the proposed development's density, the Plummer Company will be forced to strip away most of the trees on the property, thereby destroying some of the character of the Stroudwater neighborhood.

It is certainly in the interest of the City of Portland to protect the large developing tax base in the Stroudwater area by not allowing the F. S. Plummer development to proceed as currently proposed. I ask the planning board to require a minimum lot size of at least one half acre, as a condition to any approval granted to F. S. Plummer.

Thank you for your consideration.

Very truly yours,


Larry A. Plotkin

LAP/lew

Honorable Joe E. Gray
 Director Urban and Planning Development
 City Hall
 Portland, Maine 04102

Re: Shorewater Heights Development

Dear Director Gray:

"The time has come the Whos said,
 to speak of many things;
 of shoes and ships and sealing wax,
 of cabbages and kings,"

Yes, Mr. Director, the time has come for the concerned people to be heard from regarding the future development of Shorewater Heights. As one of the elderly I shall not be able to attend the Public Hearing, but my wife and I have a deep personal interest in the outcome and recommendation. Being in the twilight years of life is not all bad. One has many pleasant thoughts and memories, you reflect on and talk of those memories to your children and grandchildren and others.

One remembers an area of the Great State of Maine as tranquil, serene and beautiful with the air so pure and healthy, the majestic and sturdy trees, the abundance of beautiful bird life with the peaceful - unencumbered, New England neighborhood. This beautiful heritage is what our citizens of Shorewater desire to leave to their children and grandchildren.

We all know that the world is going to
revolve and that changes are going to develop.
We should pride ourselves that we are for
orderly progressive changes. On the other hand
we should deplore and oppose hurried
unprogressive radical changes.

such as: the destroying of the topography beyond
comprehension; altering the adequate natural
drainage pattern to one that is unnatural
and inadequate; timbering the magnificent
trees to the ground to become paper land;
then shaping the beautiful bird life to
some other habitat; and draining into
the wetlands thus ruining the marsh
beyond preservation; then of course the
added road grid would heap an
already traffic problem to one that
would be horrendous and much more
dangerous for our school children.

As Director, we feel confident that
you will listen to all interested parties,
weigh all of the credible evidence, then
with your education, knowledge, training,
and experience, draft a summary conclusion,
and from your findings, recommend accordingly.
Thank you for your time and courtesy.

Your friend,
Dennis C. Cline

(A conflict of interest prevents my signature.)



225 Douglass St. • P.O. Box 3553 • Portland, ME 04104-3553

(207) 774-5961

July 28, 1987

Mr. William G. Hoffman, VP
DELUCA-HOFFMAN ASSOCIATES, INC.
1266 Congress Street
Portland, ME 04102

Re: Stroudwater Heights

Dear Mr. Hoffman:

The Portland Water District has received a preliminary utility and concept plan of the above-named proposed subdivision, located off Westbrook Street in the Stroudwater section of Portland.

The District has a 16" water main in Westbrook Street at the project entrance. A flow test of hydrant #397, located on the corner of Westbrook Street and Stroudwater Road, yielded the following results: static pressure, 75 PSI; residual pressure, 44 PSI--while flowing 1120 GPM. This test result indicates there is adequate water available in the 16" water main to serve this proposed project, and meet all normal domestic water and fire protection requirements.

The District is receptive of the general layout of the proposed water system; however, we need to receive the profiles and/or cross section plans before we can finalize the water system layout. The hydrant locations have to be submitted to and approved by the Portland Fire Department.

We are enclosing a preliminary cost estimate for your information. With certification by the developer that all required permits have been received, and satisfactory arrangements with the District completed, we look forward to serving this project.

Very truly yours,

Donald E. Wyman
Director of Marketing/Customer Relations

DEW/d

Enclosure

CARVEL

6742/13

22'-5.5"
42'-4.5" E
IRON PIPE

12. Protective Zones. The "protective zones" shown on the Plan shall be subject to the following additional restrictions:

- a. No Owner or other person may add, remove, or transfer earth materials within the protective zones, unless for the purpose of drainage improvement, and then only with the prior approval of the City Engineer of the City of Portland.
- b. No cutting of trees or shrubs, whether living or dead, shall be permitted within 25 feet of the property lines of Lots 8, 9, 10, 11 and 12 abutting the Stroudwater Sanctuary.
- c. Selective removal of trees between 3 inches and 6 inches dbh shall be permitted within the protective zone, but shall be limited to thirty-three percent (33%) of the existing growth in any 10-year period. Selective removal of trees between 6 inches and 12 inches dbh shall be permitted within the protective zones, but shall be limited to 10 percent of the existing growth within any 10-year period.
- d. Selective pruning or thinning of lower limbs of existing trees and shrubs in the protective zones shall be permitted as follows:
 - (i) Dead, dying or diseased trees or shrubs shall be removed only as determined by the Declarant's landscape architect, a certified forester or the arborist of the City of Portland;
 - (ii) Removal of mature specimen growth by Declarant and the Owners shall be limited to those trees that need to be removed for construction purposes in accordance with the Plan; and
 - (iii) Selective limbing or pruning of mature growth by Declarant and the Owners shall be permitted only under the guidance of Declarant's landscape architect, a certified forester or the arborist of the City of Portland.

13. Additional Covenants Applicable to Part of Protective Zone. The portion of the protective zone located on Lots 13, 14, 15, 16 and 18 shown on the Plan shall be subject to those restrictions applicable to the protective zones set forth in Paragraph 17 of this Article 1, and shall be subject to the additional restriction that no construction machinery or equipment shall be permitted thereon during development of the Property by Declarant. Construction of wooden or metal fences not to exceed five (5) feet in height and planting of shrubs and trees shall be permitted within such portion of the protective zone, however.



Cumberland County Soil and Water Conservation District
587 Spring Street - Westbrook, Maine 04092 - Telephone (207) 856-6108

September 17, 1987

Mr. William Hoffman
DeLuca-Hoffman Associates, Inc.
1266 Congress Street
Portland, Maine 04101

SUBJECT: "Stroudwater Heights Subdivision" - Portland

Dear Bill:

John Simon, SCS Area Engineer, and Jody Smith, District Resource Conservationist, briefly reviewed your erosion and sediment control plan for the Stroudwater Heights Subdivision and made a site walk of the property on September 17th. We have not reviewed the calculations for the project.

We have a few comments and recommendations which we would like to make based on our office review and our site walk.

1] We would like to encourage the use of a sediment basin on the property as proposed, with the associated sequencing and grading described in the plan. It is a very thoughtful and comprehensive way of dealing with a site with rather severe topographic limitations. At the present you are proposing the use of a temporary perforated riser in the sediment basin. We recommend that the perforated riser be lined with filter fabric and that a gravel cone be placed around it and that it become a permanent installation. The proposed under-drainage for the fill area should be tied into the perforated riser. The purpose of this is to provide a permanent and high quality underdrainage system as well as to provide sediment control during construction.

2] At the point where the stormwater system outlets to the old Cumberland-Oxford Canal, we recommend that a series of three stone water checks be installed to prevent any increased water flows from causing an erosion problem in that area.

3] At the present the lots which have been identified as critical erosion areas will have deed restrictions requiring that revegetation be done within one year from the commencement of construction. We recommend that this be altered to provide a provision that if permanent seeding has not been done by September 15th, that a layer of mulch hay (at the rate of 90 lbs. per 1000 square feet) be placed on disturbed soil surfaces and anchored by wetting it down. This will protect vulnerable areas over the winter.

Please find attached field notes provided by John Simon to explain and supplement the above recommendations.

WILLIAM W. RUST
Chairman

GREGORY W. FOWLER
Vice-Chairman

ANNE M. FAVREAU
Treasurer

JOHN T. FLAHERTY, JR.
Supervisor

BRIAN G. LIBBY
Supervisor

During our site walk, we noted that there is a 24 inch concrete culvert which is currently discharging water onto a rock apron which then moves into a gully on the Duncan property. This gully appears to be eroding. The rock apron could be modified into an energy dissipating plunge pool to reduce the erosion problem in that gully. This problem is not caused by the Stroudwater Heights project.

We hope that this is of assistance to you on the review of this project. If you have any questions about our review, please call our District Office.

Should the project be approved, we look forward to seeing it during the construction phase to observe the effectiveness of the erosion control plans.

Yours truly,

J. Smith

Jody Smith
Resource Conservationist

cc: Maureen O'Meara, Planner, City of Portland
John Simon, SCS Area Engineer

9/12/86

PHONE CALL OR FIELD TRIP NOTES

THIS REPORT IS BY: JOHN SIMON, P.E., CIVIL ENGINEER
FOR FIELD OFFICE: WEST BROOK COPY TO F.O.: YES NO
TRIP DATE: 9/17/87 AM V PM FIELD TECHNICIANS ACCOMPANYING ME:

JODY & BILL HOFFMAN 10^A - 11:45^A 1ST

LANDOWNER: DE LUCA - HOFFMAN ASSOC. INC. (207) 775-1121

ADDRESS: 1266 CONGRESS ST, PORTLAND ME 04102

FARM TYPE OR ENTERPRISE: CONSULTANTS

PROJECT/PROBLEM BEING INVESTIGATED: STROUDWATER HEIGHTS

SUBDIVISION, PORTLAND ME.

FIELD DATA INFLUENCING DESIGN: SITE WALKED AREA WITH

JODY & BILL. NO SWM NEEDED - PUMPS DIRECTLY
INTO BACKWATER OF FORE RIVER.

COMMENTS:

POSSIBLE SOLUTIONS OR COMPONENTS OF A TOTAL SOLUTION:

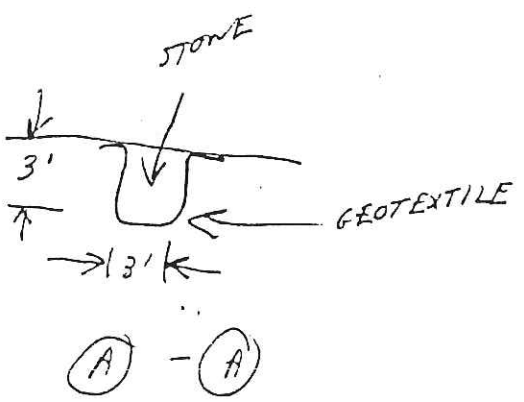
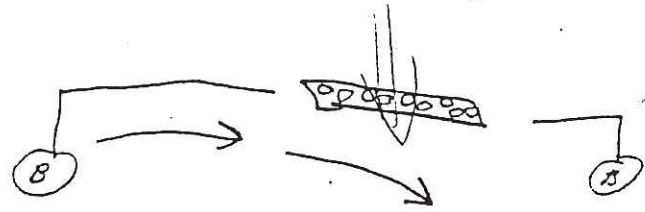
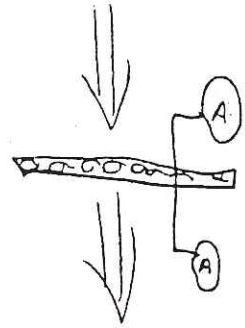
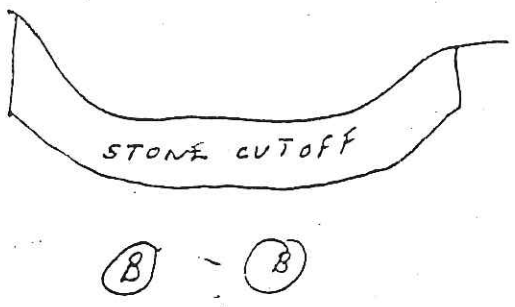
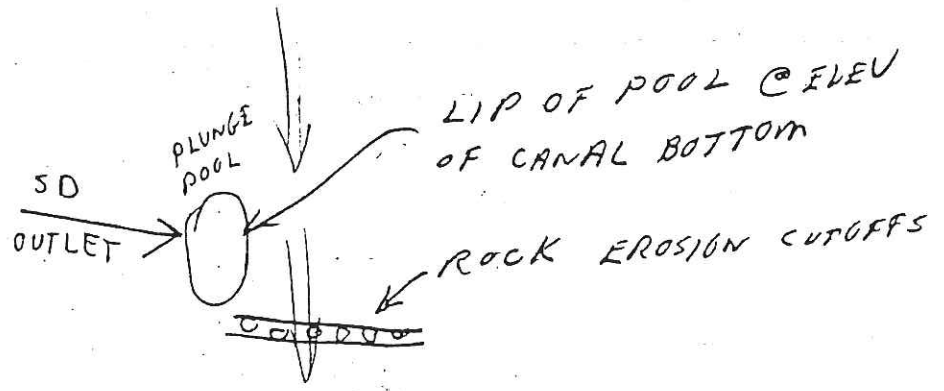
1 - MULCH IF SITE GOES OVERWINTER

2 - MAKE SURE SINGLE OUTLET TO STORM
DRAIN HAS AN ENERGY DISSIPATING PLUNGE
POOL - NOT AN APRON.

3 - FROM THE SD OUTLET TO THE CUMBERLAND -
OXFORD CANAL, DOWN TO OUTLET OF SA-3B,
INSTALL (3) EROSION SUTOFF TRENCHES TO
PREVENT DEGRADATION - SEE REVERSE

4 - ON SEDIMENT POND USE PERFORATED CONCRETE
RISER, ADD SECTIONS AFTER DEVELOPMENT TO CONVERT
TO MAN HOLE, TIE IN TILE, AND SURROUND
RISER W/ GEOTEXTILE & GRAVEL TO HELP DRAIN
GULLEY THAT WILL BE FILLED.

5 - ON THE DUNCAN PROPERTY THE 24" OUTLET APRON
COULD HAVE BEEN BETTER AS A PLUNGE POOL
TO DE-ENERGISE THE PIPE ON SUCH A STEEP CHANNEL.





Cumberland County Soil and Water Conservation District
587 Spring Street - Westbrook, Maine 04092 - Telephone (207) 856-6108

September 29, 1987

Mr. William Hoffman
DeLuca-Hoffman Associates, Inc.
1266 Congress Street
Portland, Maine 04101

SUBJECT: "Stroudwater Heights Subdivision" - Portland

Dear Bill:

Jody Smith, District Resource Conservationist, briefly reviewed the revisions which you submitted on the erosion and sediment control plan for the Stroudwater Heights Subdivision. Based on this brief review, we have no objections to your plans as proposed.

We hope that our suggestions were of assistance to you on this project.

As stated in our earlier correspondence, should the project be approved, we look forward to seeing it during the construction phase to observe the effectiveness of the erosion control plans.

Yours truly,

J. Smith

Jody Smith
Resource Conservationist

cc: Maureen O'Meara, Planner, City of Portland

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Maureen O'Meara, Planner

FROM: Robert J. Roy, Planning Engineer, Parks and Public Works

SUBJECT: Stroudwater Heights Subdivision

DATE: 10/2/87

I have reviewed the plans for this 20-lot single family subdivision and find them to be acceptable to this Department with the following conditions:

1. That a sidewalk be constructed on the easterly side of Kingsmark Lane from Westbrook Street to the sidewalk proposed within the project.
2. That executed deeds for the sewer and drainage easements be submitted for Corporation Counsel review.

Sanitary sewerage from the lots will be connected into collector sewers in the proposed streets. These lines will be connected into the Portland Water District Interceptor Sewer in the vicinity of the Old Cumberland-Oxford Canal. This existing Interceptor Sewer has adequate capacity to handle anticipated wastewater flows from the project.

The stormwater management and erosion and sedimentation control plans have been reviewed and approved by this Department. At my request the plans were reviewed by staff at the Cumberland County Soil and Water Conservation Service. The engineer for the project has done a commendable job in addressing comments and concerns raised by this office and S.C.S.

Strict adherence to and implementation of the erosion and sediment control program during construction of this subdivision is critical given the topography and high erosion potential of the soils existing on this site.

Regarding the request for sidewalks along certain portions of the proposed streets, this Department does not support the waiver request and feels the streets should be built in accordance with City standards.

Please don't hesitate to contact me if you have any questions.



RJR/bjk
pc: William S. Boothby, Principal Engineer

MEMORANDUM

TO: Maureen O'Meara
FROM: William J. Bray, Traffic Engineer
SUBJECT: Stroudwater Heights, Westbrook Street
DATE: October 2, 1987

Please be advised that the subject subdivision plans are not acceptable and I will not and cannot recommend their approval until the Developer solves the vehicular sight distance problem as it relates to removal of the sight restrictions. Most noticeably, the large white pine looking left from the street at Westbrook Street must be removed before access onto Westbrook Street can be granted.

DeLUCA - HOFFMAN ASSOCIATES, INC.

CONSULTING ENGINEERS
1266 CONGRESS STREET
PORTLAND, MAINE 04102
(207) 775-1121

MICHAEL J. DELUCA, P.E.
PRESIDENT

WILLIAM G. HOFFMAN, P.E.
VICE-PRESIDENT

September 28, 1987

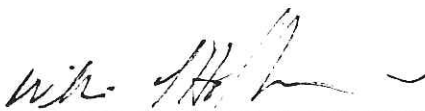
MEMO

TO: Mr. Bob Roy
Ms. Maureen Omara

FROM: William G. Hoffman, DeLuca-Hoffman Associates, Inc.
Richard Berman, Berman Associates

Subject: Questions of the Stroudwater Association received September
23, 1987

The questions raised by the Stroudwater Association have been reviewed and a response to most questions has been prepared by DeLuca-Hoffman Associates, Inc., and Berman Associates. If any further information is required, please contact our office. It is our understanding a copy of this response will be provided to the Stroudwater Association.



William G. Hoffman, P.E.
Vice President
DeLuca-Hoffman Associates, Inc.



Richard Berman
Berman Associates, Inc.

Stroudwater Heights Subdivision

Part 1: Questions for the City Engineer

1. Q: What % of land has to be cut and filled to accomplish current proposals?

A: The roadway itself will disturb 2.4 acres of the site including backslopes onto abutting lots within the subdivision. Of the remaining 11.25 acres there are about 3.5 acres in the protective zone where no disturbance will occur. It is estimated 2.4 acres of the balance will be disturbed by designated placement of excess fills. A total percent including all disturbance by lot development is difficult to predict where many homes will be custom designed for compatibility with the attributes of the site.

2. Q: If the swales are filled and water allowed to drain to the clay level (which does not absorb water) will the water run off under the fill and produce land slides?

A: All filling accomplished at the time of roadway construction will be accomplished by grubbing and placement of in-situ materials using the MDOT embankment layer method.

To avoid an incompatibility between the in-situ permeability between native materials and foundation backfill materials Lots 1 to 6, 8, 9, and 13 to 20 will have foundation drains connected to the storm drain. Lots 7, 10, 11, 12, and 21 are expected to have daylight basements and the foundation drainage will be permitted to "daylight" near the home.

3. Q: When drainage and erosion studies are calculated do they take into account the run off from the abutting property?

A: Yes (refer to Figure 1 of the September 14, 1987 Stormwater Management and Erosion Control Program).

4. Q: Do the storm water studies take into account the run off changes from the new properties on the east side of the project?

A: The properties on the east side of the project will not directly impact the planned formal drainage system.

5. Q: Because of the topography of Lot #7, it appears that a lot of cutting and leveling will have to occur. Therefore, how will the drainage and topography downstream be affected?

- A: Lot 7, as well as all other lots in the project area, require strict erosion control practices to be incorporated into the design (refer to Page 10 of September 14, 1987 Stormwater Management and Erosion Control Program). The protective zone in this general area is intended to avoid disruption of the vegetation near the existing drainage channels to avoid exposing these areas to erosion. The drainage from Lot 7 will drain to one of these channels.
6. Q: Considering the amount of clearing necessary for road construction and housing envelopes; if the timing of development leaves the land exposed to spring thaws and rains, what effect would this create on storm water drainage and erosion?
- A: The Soil Conservation Service recommended temporary hay mulch be employed to stabilize denuded areas during this period. This recommendation has been adopted and incorporated into the project (Refer to Amendment to the Stormwater Management and Erosion Control Program dated September 22, 1987).
7. Q: What is the effect of water drainage from Westbrook across the site?
- A: The outlet of the Westbrook Street drainage system is discussed on Pages 3, 4, and 5 of the September 14, 1987 Stormwater Management and Erosion Control Program.
8. Q: What are the specific drainage plans for lots 13 to 16?
- A: These lots will be served by two field inlets. The first will be between Lots 15 and 16, which also intercepts the 2.1 +/- acre off site watershed from the Buttonwood area. The second will be located between Lots 13 and 14.
9. Q: Why are there no required submissions of site plans showing grading, slope treatment, and erosion control provisions for Lots 12 to 16 when they sit on the natural drainage contour?
- A: The lots for which specific site plans are required was established based upon a review of slopes and site constraints of each lot through conferences with the City Planning staff and the Developer. It was determined through these conferences that the four lots questioned would not require ancillary submissions.
10. Q: Will the drainage system create standing water beside the Carvel property? If more standing water is created, how much, and will this cause environmental or health hazards?

A: No, as the result of several meetings between the Developer and the Stroudwater Neighborhood Association, the storm drain outlet was relocated. It is interesting to note the Soil Conservation Service found the original location technically favorable to the relocated outfall. The new location requires downstream erosion control checks which would not have been required at the former location.

11. Q: What happens to the silt produced by storm water drainage both during and after construction?

A: The sedimentation pond is designed to remove a high percentage of silt during the construction of the project. Requirements for on site erosion control practices during individual lot development are intended to address the problem during phase. After the site has been revegetated, the generation of silt will be minimized. The residual silt will, however, be transported to the outfall.

12. Q: Would the silt run off be a threat to the delicate ecosystem of the saltwater marsh and the Audobon bird sanctuary?

A: Concerns on the sensitivity of the receiving waters were a key reason for incorporating the sedimentation pond into the project.

13. Q: Will Carvel's and Porter-Black's property embankment be protected from erosion? If so, how?

A: As noted in Item 10, the storm drain outfall has been relocated away from this area. Also, refer to the reference discussion mentioned in Question 7.

14. Q: Will the rip rap plunge pool become ineffective because of the tremendous amount of erosion?

A: The plunge pool is designed of non-erodible materials. The materials have been designed for this specific application using the computer software system developed by John Simon of the Soil Conservation Service (for computations see Figure A-23 of the September 14, 1987 Stormwater Management and Erosion Control Program).

Stroudwater Heights Subdivision

Part 2: Questions for Planning Board Staff

1. Q: Since the Developer has not incorporated the Declaration of Protective Covenants and Common Easements into the subdivision plat plan, what recourse do we have if the covenants are not followed?

A: The Protective Covenants are referenced on the recording plat (Note 2). If the Developer's legal staff and the City Planning Board determine further cross referencing is necessary, the appropriate changes will be made.

2. Q: Shouldn't they be incorporated?

A: See Item 1.

3. Q: The subdivision plan fails to properly name the adjacent property owners.

A: The recording plat is based upon the December 1985 plan of the property prepared by John Cuthern. Owen Haskell, Inc. is reviewing the list of abutters to correct any errors.

4. Q: The subdivision plan fails to show the tree plan showing "groups of existing sizable trees which the subdivider intends to preserve" (See Question 6).

A: The protective zones and Note 7 of the recording plat address this item.

5. Q: Can the Developer be required to open an escrow account to cover any damage suffered by the abutter's property?

A: It is the opinion of Berman Associates, Inc. and DeLuca-Hoffman Associates, Inc. that the City legal staff could better address this question.

6. Q: What is considered "undue adverse effect on the scenic or natural beauty of the area...?"

A: The City Planning Staff can better address this question. However, the following efforts have been undertaken by Berman Associates to address this issue:

- 1) The protective zone established on the northerly side of the property is designed to retain the open space

appearance of the Audobon Land. The Maine Audobon (Jody Jones) has participated in the development of the restrictions contained in the Declaration of Protective Covenants.

- 2) The protective zone on the westerly boundary has been established to protect a row of large white pines which set along this property boundary.

7. Q: What is the effect of the proposed 23 houses on the municipal sewer and water systems?

A: A letter was obtained from the Portland Water District indicating the District has sufficient capacity for the domestic and fire flow needs of the project.

The sewer has been designed and requires air testing to minimize infiltration. The biologic loading of the sanitary waste stream from this development on the Portland Treatment System will be minimal.

8. Q: Paragraph 9 on Page 3 of the Protective Covenants requires that no trees will be cut or trimmed within 25 feet of the sidelines of any lot. The plans show that driveways to some houses will be located within the 25 foot protective zone.

A: This paragraph has been removed.

9. Q: Define sideline and does the term refer to front and back also?

A: See comment Item 8. The ordinance specifically defines front, rear, and sidelines (Sections 14-47 and 14-80-4).

10. Q: If paragraph 9 of page 3 is correct, how are they able to place a house on Lot 19, 10 feet from the property line?

A: With the paragraph of the protective covenants removed (Item 8) a garage, as shown on the concept drawing, could be placed within 10 feet of the sideline (Sections 14-80-4-c and 14-432 of the ordinance). Keep in mind, the concept plan is "Conceptual in Nature", and does not reflect the exact location, dimension, or design of a particular home.

11. Q: Twenty-three houses would represent how many cars per house? On an average, how many trips per day does each car make?

A: The number of cars per house will vary from lot to lot, owner to owner, etc. The Institute of Traffic Engineers manual is

the basis for estimating traffic volumes. Using this manual, it is estimated each home will have a trip generation rate of 10 per day. The development currently reflects an additional 200 trips per day at Kingsmark Lane and 10 trips per day at Stroudwater Street.

12. Q: Would this development have a significant effect on the traffic on both Westbrook Street and Congress Street both during construction and after completion?

A: The development is not anticipated to create a significant traffic impact.

13. The copy of the memo received by our office does not include this Question.

14. The copy of the memo received by our office does not include this Question.

15. Q: Who decides how many hay bales and where they should be placed to prevent erosion?

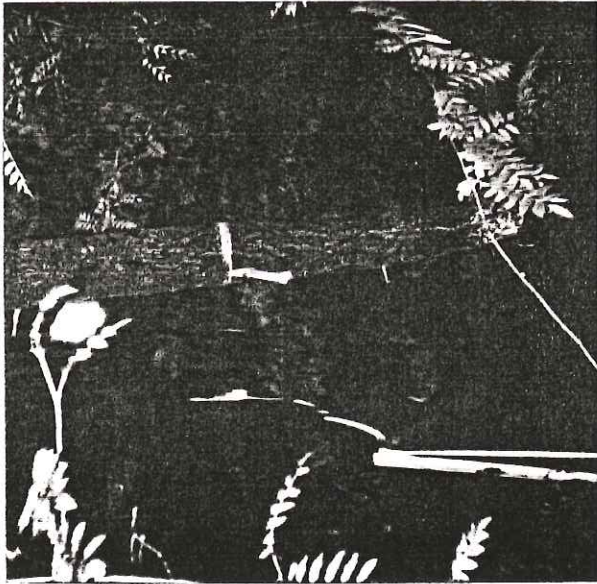
A: The Stormwater Management and Erosion Control Program and Sheet 8 of the Contract Drawings set the guidelines. Discretion to modify the placement to optimize the effectiveness of the hay bales may be used during construction.

16. Q: What recourse do we, as abutters, have if the system fails?

A: It is the opinion of Berman Associates, Inc. that this question can be better addressed by the City.

ATT 6

DATE TAKEN: 04 Aug 1995



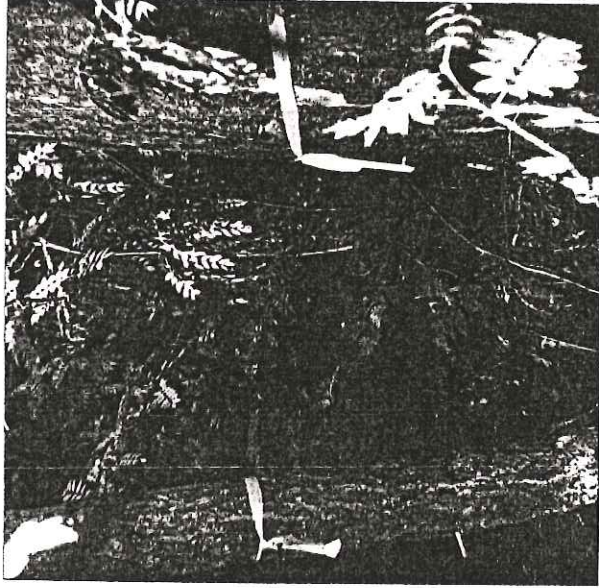
PICTURE 1

Picture taken along Protective Zone line. South orientation.

Approx. 35 ft from East property line
Approx. 45 ft from South property line

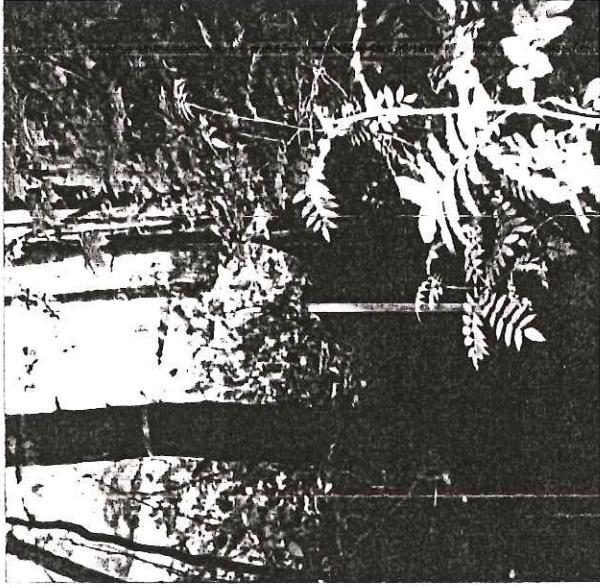


Trees with yellow surveyor's tape determined to be within Building envelope and outside Protective Zone.



PICTURE 2

Smaller tree on left is same tree as in Picture 1



PICTURE 3

Picture taken along Protective Zone line North orientation.
(opposite direction to Pic. 1)

72 Stroudwater Road
Portland, ME 04102

ATT 7

August 3, 1995

Mr. Joseph Gray
Director of Planning and Urban Development.
City of Portland
389 Congress St.
Portland, ME 04101

Dear Mr. Gray:

This is in reference to the hearing scheduled for Tuesday, August 8, 1995 regarding a proposed reduction of the shoreland zoning requirement for 67 Kingsmark Lane.

We are abutters to this property who are concerned that the owner of this lot is violating the Protective Zone established by the approved subdivision plan for Lot 8, Stroudwater Heights. The Protective Zones were agreed to by the developer of the Subdivision after review by various governmental agencies and negotiation with the Stroudwater Improvement Association and were incorporated into the approved subdivision plan. The terms were to be included in deed covenants running with the land. As noted in Section 4 of the Planning Department Report for Stroudwater Heights, submitted to the Portland Planning Board on October 6, 1987,

"This zone includes some of the most significant slopes on the site, as well as buffers the abutting Stroudwater Sanctuary and the Blackburnian Pines Subdivision. Inside the protective zone, there will be no cutting and filling of slopes. Tree removal will be restricted to (1) removal of 33% of trees between 3-6 inches in diameter over a 10 year period, and (2) removal of 10% of trees between 6-12 inches in diameter over a 10 year period.... These restrictions were developed to prevent erosion of significant slopes on the site and in response to neighborhood concerns."

We reviewed the building plan submitted by the owner and builder of Lot 8 in connection with this request. The plan fails to show the Protective Zone on Lot 8. This omission is more than an oversight; it is misleading to the Planning Board relative to this application. There has been significant tree removal on Lot 8 which we believe violates the tree removal restrictions referenced above. The Protective Zone needs to be marked on the plan and on the site, and the lot owner should remediate and restore the trees and vegetation improperly removed. We remain very concerned that the slope to Lot 8 near our property line, which has a stream leading to the marsh, be protected so as to avoid erosion and undue runoff.

Joseph Gray

08/03/95,page 2

We also oppose the reduction of the shoreland zoning requirement. While we recognize the rights of an owner to build on and develop his or her property, they knew or certainly should have known about this requirement, as well as the Protective Zone and other restrictions on the subdivision plan and recorded covenants.

Your consideration of these issues is appreciated.

Sincerely,



Shelley Stuart Carvel



Steven Carvel

ATT 1

GENERAL NOTES

1. BOUNDARY IN HEIGHTS BY
2. TOPOGRAPHICAL IN STROUDWATER CHANGES ADJ
3. DESIGN OF DRAIN ENTERPRISES ENTERPRISES.
4. ALL CRITICAL BY THE BUL THE BUILDER

PORTLAND WATER DISTRICT R/W (PERPETUAL RIGHTS FROM MAINE AUDUBON)

LOT 6 N/F CARLAND C. & BRENDA H. CARLAND

Legend

- o Found iron pipe or rod
- Property line
- Existing elevation contour
- 32 Proposed elevation contour
- 11 x 1 Existing spot elevation
- x 34.4 Proposed spot elevation
- Drainage swale with Excelsior Erosion Control Blanket
- Silt fence
- Temporary Soil Stockpile Area
- PH-1 PHOTOGRAPH DESIGNATION SHOWING LOCATION AND DIRECTION OF VIEW

EROSION CONTROL PROVISIONS

1. SILT FENCE SEDIMENT BARRIERS SHALL BE INSTALLED IN SHOWN PRIOR TO BEGINNING EARTHWORK.
2. EARTHWORK CONSTRUCTION AREAS SHALL BE STABILIZED OF DISTURBING THE EXISTING GROUND COVER IN EACH R USING TEMPORARY MULCH OR PERMANENT VEGETATION, BELOW.
3. TEMPORARY MULCH: TEMPORARY HAY OR STRAW MULCH SH THE RATE OF 80 BALES PER ACRE. MULCH SHALL BE RE NEEDED TO MAINTAIN 90 PERCENT OR GREATER GROUND
4. PERMANENT VEGETATION - SPREAD 4 INCHES OF LOAM AND R REFRANT WITH THE FOLLOWING.
 - a. APPLY GROUND LIMESTONE AT THE RATE OF 140 LBS. / 10
 - b. APPLY 10-10-10 FERTILIZER AT THE RATE OF 80 LBS. PER
 - c. APPLY THE FOLLOWING SEED MIX. BETWEEN THE 15 - MAY 31 OR AUGUST 1 - SEPTEMBER 10.
 - (1) CREEPING RED FESCUE: 0.46 LBS. / 1000
 - (2) TALL FESCUE: 0.46 LBS. / 1000
 - (3) RED TOP: 0.05 LBS. / 1000
 - d. FOR SEEDING FROM OCTOBER 15 UNTIL JUST BEF SNOW OF THE SEASON, OR FROM AFTER THE SPR UNTIL APRIL 15, USE DOUBLE THE ABOVE SEED M AS A PERMANENT SEEDING PROCEDURE. NO SEED SHALL TOP OF SNOW COVER.
5. EXCAVATED SOIL SHALL BE STOCKPILED ONLY IN AREAS DE PLAN. A SILT FENCE OR HAY BALE SEDIMENT BARRIER ON THE DOWN HILL SIDE OF ALL STOCKPILES. TEMPORA ALSO BE SPREAD AND MAINTAINED ON ALL STOCKPILES.
6. INSTALL EXCELSIOR EROSION CONTROL BLANKET (BY ERO INC.), OR EQUAL IN DRAINAGE SWALES AT LOCATIONS BLANKETS SHALL BE AT LEAST 40' WIDE, AND SHALL IN THE SWALES.

GRADING, EROSION CONTROL, AND DRAINAGE PLAN LOT 8, STROUDWATER HEIGHTS

BUILDER: LEGERE ENTERPRISES 304 WOODFORDS STREET PORTLAND, ME 04103

OWNER: JOHN BONETTI 56 BROOKSIDE ROAD PORTLAND, ME 04103

ENGINEER: MICHAEL FARMER 38 A STREET SOUTH PORTLAND, ME 04106

DATE: MAY 27, 1995 SCALE: 1" = 20'

SHEET 1 OF 1



Department of Environmental Protection FOR DEP USE
 Bureau of Land and Water Quality
 State House Station 17 L- _____
 Augusta, Maine 04333 Total Fees: _____
 Telephone: (207) 287-2111 Date: Received _____

**APPLICATION FOR ALTERATION PERMIT
 UNDER THE NATURAL RESOURCES PROTECTION ACT**

Part I

Please type or print:

Name of Applicant: John B. Bonetti
 c/o Legere Enterprises
 Address: 304 Woodfords Street Telephone (Day): 871-9483
 City: Portland State: ME Zip: 04103

Name of local contact or agent: Randall Legere
 Legere Enterprises
 Address: 304 Woodfords Street Telephone: 207-871-9483
Portland, ME 04103

Type of project you are proposing, such as wetland fill, shoreline stabilization, maintenance dredging, etc.:
Construction adjacent to a stream

Name(s) of department staff person(s) previously contacted concerning this application:
none

If this application is a resubmission, please list the previous application number:

1. PROJECT LOCATION:

Nearest Road, Street, or Route Number: Kingsmark Lane
 City/Town: Portland county: Cumberland

Waterbody or resource the project will be located in or adjacent to:
un-named stream, not shown on U.S.G.S. 7 1/2 minute quadrangle of "Portland West."

Provide exact directions to the project site. EXAMPLE: "Turn right off Route 202 Southbound; go 1/2 mile down Elm Street and take a left onto Fire Road #32. Take the third dirt road on the right, opposite utility pole #70A."

From Intersection of I-295 and Congress St. in Portland. Go west on Congress St. 1.4 miles to Westbrook St. (traffic light). Turn right on Westbrook St. and go 0.45 miles to Kingsmark Lane, on the right. Turn right onto Kingsmark Lane and go to the end of the cul-de-sac.

NOTE: If there are no identifying features on the lot, put up a temporary sign to help field investigators find the proper site. Avoid using local names for roads that are not clearly marked with signs at all times of the year. Include a sketch map showing the project location.

2. PROJECT HISTORY:

Has any part of this project been started without a permit? X YES NO

If yes, please describe and show on plans the area previously altered:

Some trees have been cut down in the construction area. No ground has been grubbed or graded.

If you have received a written notice of violation from the department for undertaking the project without a permit, please list the 7 digit enforcement file number (listed on the notice) and provide the name of the enforcement agent:

not applicable

Is this project part of a larger project? YES NO X

If yes, describe the larger project:

not applicable

3. ATTACHMENTS REQUIRED FOR ALL PROJECTS:

- A. Attach as **Exhibit 1**, a map with project location clearly marked. Acceptable maps are USGS topographical maps or other maps of similar detail such as the Maine Atlas or Gazetteer (clear photocopies are acceptable provided they are labelled with quad name or map number).
- B. Attach as **Exhibit 2**, photographs of the area to be altered which show vegetation and other landscape features. Photos should be mounted on an 8 1/2" x 11" sheet. The photographs must be labeled with location, photographer, and date taken. Original photographs must be attached to the original copy of the application. Legible photocopies of photographs are acceptable for the other 7 application copies.
- C. Attach as **Exhibit 3**, site drawings (**overhead and side views, see examples in Appendix I**) of the project site which show the project in detail, including the following:
- _____ 1) The exact location of the waterbody, watercourse and/or wetland including normal high water and mean low water lines and/or wetland boundary;
 - _____ 2) Dimensions and exact location of the proposed project on the lot;
 - _____ 3) Location and dimensions of all existing structures on the lot and all existing structures on abutting lots within 50 feet of any proposed structure;
 - _____ 4) Proposed seasonal structure (a seasonal or temporary structure is a structure in place less than 7 months per year);
 - _____ 5) Location of all proposed erosion control measures;
 - _____ 6) Location and dimensions of property lines and names of abutters;
 - _____ 7) Scale of drawings (where an area of greater than 500 square feet is to be altered, drawings must be at a scale of at least one inch equals 100 feet and must show two foot contour intervals unless otherwise approved by the Department); and

THE DEPARTMENT HAS FOUND THAT A MAJOR CAUSE OF APPLICATIONS BEING RETURNED IS THE LACK OF PROPERLY PREPARED PLANS. ACCURATELY DETAILED PLANS ARE CRUCIAL TO EFFICIENT APPLICATION PROCESSING. IF YOU DO NOT POSSESS STRONG SKILLS IN DRAFTING PLANS, THE DEPARTMENT RECOMMENDS THAT YOU HIRE A CONSULTANT TO DO THE WORK FOR YOU.

NOTES: A) See sample drawings in Appendix I

B) Larger drawings are permissible, however, if drawings exceed 8 1/2" x 11 " in size, seven (7) copies folded to 8 1/2" x 11" are required.

____8) If the project consists of a roadway or a dam, cross sections must be provided.

4. LOT INFORMATION:

A. Size of lot or parcel in square feet or acres: 74,031 S.F.

B. Do you: own ____ lease ____ have an option X or written agreement to use ____ the property? Yes

C. Attach as **Exhibit 4**, a copy of deed, lease, purchase agreement, or other legal documents establishing title, right or interest in the site, or list the deed reference numbers from the Registry of Deeds:

Book #: 8788 Page #: 306

D. List the map and lot number of the property from the town tax maps:

Map #: 226 Lot #: A-13

5. PROJECT INFORMATION:

A. Describe in detail the proposed project including dimensions of structures and areas to be altered. Include a statement as to why the project is needed.

See Item 5.A. - Attachment

(Use a separate or additional sheet if needed.)

B. What is the area of wetland or waterbody (below the normal high water line) in square feet that will be altered by the project? zero

C. If your project involves a freshwater wetland, indicate the wetland's classification(s) under the Wetland Protection Rules Chapter 310. n.a.

6. PROJECT CONSTRUCTION:

A. Describe how the project will be constructed. Include each step to project completion:

Erosion Control Devices will be installed prior to and during construction, per Exhibit 3

(Use a separate or additional sheet if needed.)

B. How will the project area be reached by equipment and vehicles required for construction (for example, by an existing road or path, through an area that will be cleared, etc.)? Describe how the area used for access will be repaired after the project completion:

Equipment will be reached the construction site via Kingsmark Lane, which is paved. All disturbed areas of the site will be revegetated.

C. Will the project require the clearing of any trees or other vegetative cover? YES NO

If yes, explain: Trees and ground vegetation will be removed from about 13,500 S.F. (18%) of the site.

D. If you are proposing to excavate soil, bulldoze or scrape the land or use fill, provide a description of what temporary and permanent measures will be taken to control erosion of disturbed or filled areas:

(1) Temporary measures: mulch and silt fence sediment barriers

(2) Permanent measures: Vegetation

Please refer to Exhibit 3 and item 5.A.

NOTE: All erosion control measures proposed must be shown on project plans as part of Exhibit 3 and must conform to the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, 1991.

E. If dredging is proposed:

1) What volume of material will be dredged or otherwise removed below the normal high water line? _____ cubic yards; below the mean low water line? _____ cubic yards

2) Describe how and where the dredged material will be utilized or disposed of. Include specifications for stabilizing the material to prevent erosion: _____

- 3) Describe the dredging operation and what measures will be taken to prevent sedimentation of surrounding waters: _____

NOTE: Upland Disposal of dredge spoils is subject to the Solid Waste Rules, Chapters 400-405. Spoils to be disposed of in an upland location must undergo physical and chemical testing as outlined in the Solid Waste Rules, 06-096 CMR 405.5. Spoils to be disposed of at an ocean disposal site must be tested in accordance with the U.S. Environmental Protection Agency and U.S. Army Corps of Engineers' document "Guidance For Performing Tests on Dredged Material To Be Disposed of in Open Waters". The Department strongly recommends that applicants schedule a pre-application meeting with Department staff prior to submitting an application for dredging.

- 4) If dredged material is to be disposed of at an ocean disposal site:
- a. Attach as **Exhibit 5**, a map of the proposed transportation route to the disposal site.
 - b. Submit a copy of the application to all municipalities adjacent to the proposed transportation route.
 - c. Publish notice of the proposed transportation route in a newspaper of general circulation in the area adjacent to the proposed route.

NOTE: Notice of the proposed route must include compass bearings or Loran coordinates.

- 5) Attach as Exhibit 5A, a copy of the test results required for the proposed method of disposal.

7. INFORMATION CONCERNING THE FILING OF PUBLIC NOTICE

The Department of Environmental Protection requires that an applicant provide public notice in which he/she describes the project activity and where it is located. Three notices all using the same form (see Notice of Intent to File, page 15) are required. The notice requirements are as follows:

- 1. Newspaper - You must publish the Notice of Intent to File in a newspaper circulated in the area where the project is located. The notice must appear in the newspaper within 30 days prior to your filing the application with this Department.
- 2. Abutting Property Owners - You must send a copy of the Notice of Intent to File by certified mail to the

owners of property abutting the project. Their names and addresses can be obtained from town tax maps or local officials. They must receive notice within 30 days prior to your filing the application with this Department.

List below the names and addresses of the owners of abutting property (use additional sheet if necessary).

NAME

ADDRESS

See attached list.

3. Municipal Office - You must send a copy of the Notice of Intent to File and a DUPLICATE OF THE ENTIRE APPLICATION to the Municipal Office.

NOTE: The applicant shall use the Notice of Intent to File form on the next page or one containing identical information to notify abutters, municipal officials, and local newspapers.

NOTICE OF INTENT TO FILE

Please take notice that John B. Bonetti
c/o Legere Enterprises, 304
(Name, Address and Phone of Applicant)

Woodfords Street, Portland ME 04103

is intending to file a Natural Resources Protection Act permit application with the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. §§ 480-A through 480-V on or about June 1, 1995
(anticipated filing date)

The application is for _____
(state specifically what is to be done)

Construction near or adjacent to a regulated stream.

at the following location: Lot 8, Stroudwater Heights,
Kingsmark Lane, Portland, Cumberland County,
Maine
(project location)

A request for a public hearing or a request that the Board of Environmental assume jurisdiction over this application must be received by the Department, in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection. Public comment on the application will be accepted throughout the processing of the application.

The application will be filed for public inspection at the Department of Environmental Protection's office in (Portland, Augusta or Bangor) during normal working hours. A copy of the application may also be seen at the municipal offices in

Portland, Maine.
(town)

Written public comments may be sent to the Department of Environmental Protection, Bureau of Land and Water Quality, State House Station #17, Augusta, Maine 04333.

8. Signature:

By signing below, the applicant (or authorized agent) certifies that he or she has:

1. Sent by certified mail a completed copy of the Notice of Intent to File to the owners of the property abutting the land upon which the project site is located within thirty days prior to the filing of the application;
2. Sent by certified mail a completed copy of the Notice of Intent to File and filed a duplicate of this application with the town clerk or city clerk of the municipality(ies) where the project is located.
3. Published a Notice of Intent to File once in a newspaper circulated in the area where the project site is located within thirty days prior to the filing of the application;
4. If the project involves filling or dewatering greater than 20,000 square feet of Class I or Class II wetland, or 1 acre or more of Class III wetland; construction of expansions or new buildings on frontal dunes; new crossings of Outstanding River Segments as defined by 38 M.R.S.A. section 480-P; or federal consistency determinations pursuant to the Coastal Zone Management Act, has provided notice of and held a public informational meeting in accordance with Chapter 2, Rules Concerning the Processing of Applications, Section 8, prior to filing the application.
5. Authorized the Department and any reviewing agency personnel the Department has requested to enter the property to review the application.

"I certify under penalty of law that I have personally examined the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I authorize the Department to enter the property that is the subject of this application, at reasonable hours, including buildings, structures or conveyances on the property, to determine the accuracy of any information provided herein. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

DATE:

June 09, 1995

Legere Builders Inc.
Randall P. Legere - Pres.
SIGNATURE OF APPLICANT

IF SIGNATURE IS OTHER THAN APPLICANT
ATTACH LETTER OF AGENT AUTHORIZATION

Randall P. Legere, President
PRINT NAME AND TITLE

NOTE: ANY CHANGES IN PROJECT PLANS MUST BE SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL PROTECTION IN WRITING AND MUST BE APPROVED BY THE DEPARTMENT PRIOR TO IMPLEMENTATION. FAILURE TO DO SO MAY RESULT IN ENFORCEMENT ACTION AND/OR THE REMOVAL OF THE PROJECT CHANGES.

EXHIBIT 1
LOCATION & AREA TOPOGRAPHIC MAP
SCALE: 1" = 2000'

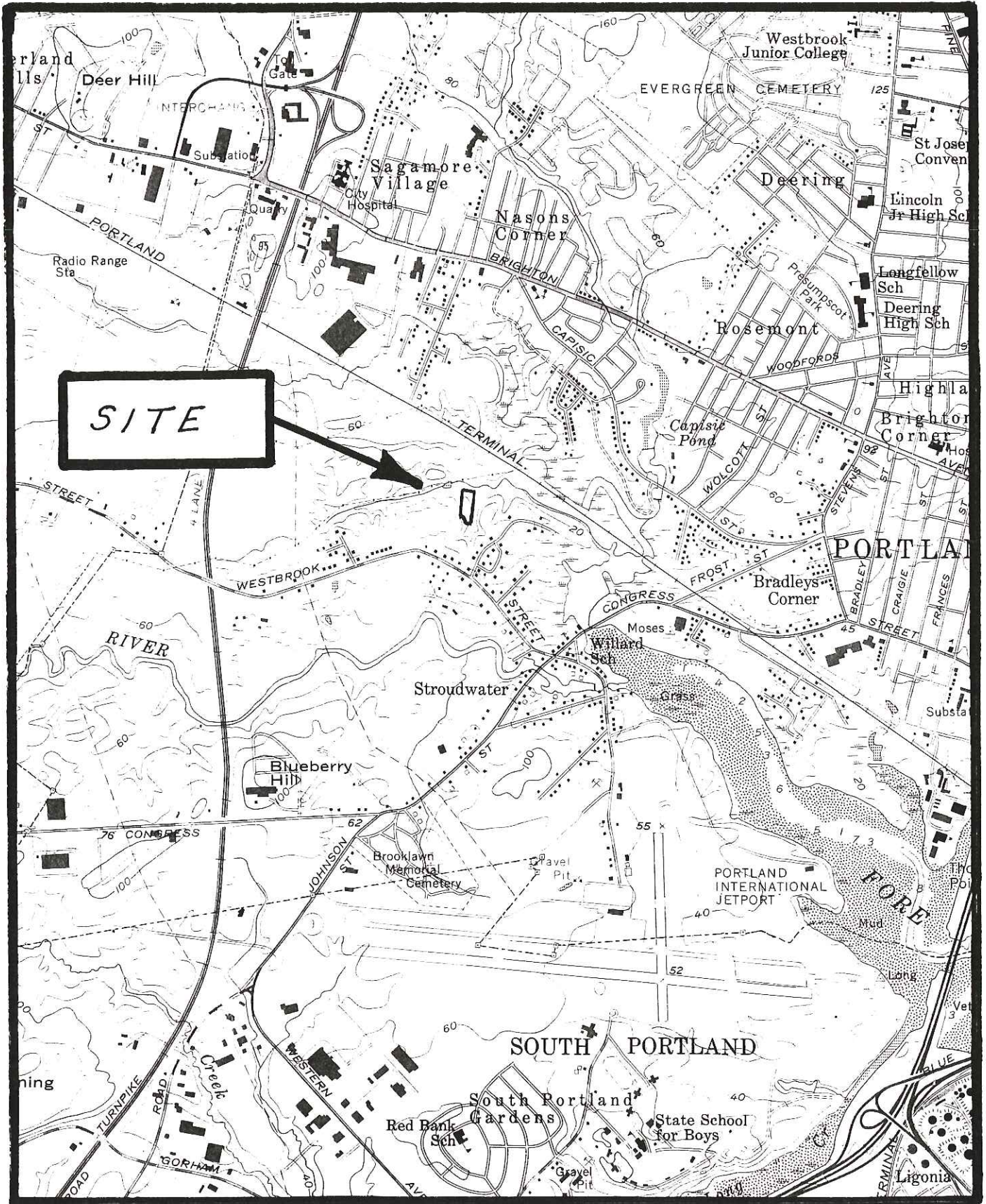
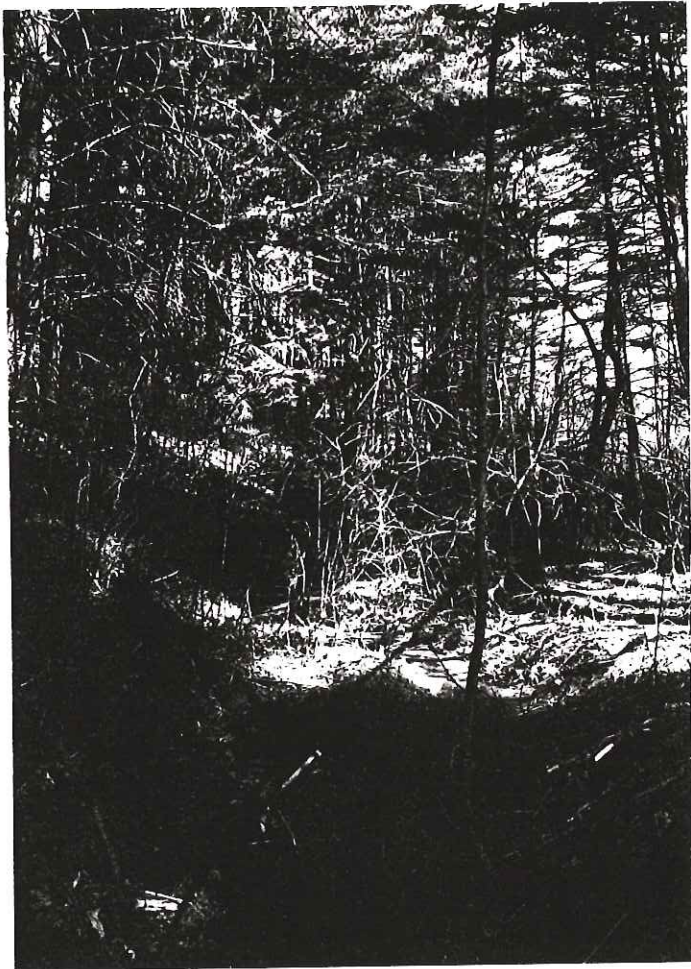


EXHIBIT 2
PHOTOGRAPHS OF SITE
PHOTOGRAPHER : MICHAEL FARMER
DATE : MAY 5, 1995



PH-1. UNNAMED STREAM
WHICH CROSSES SITE

PH-2. LOOKING UPHILL TO
CONSTRUCTION AREA. EDGE
OF CUL-DE-SAC FILL IS
VISIBLE AT UPPER RIGHT.



GRADING, EROSION CONTROL, AND
DRAINAGE PLAN
LOT 8, STROUDWATER HEIGHTS

BUILDER: LEGERE ENTERPRISES

304 WOODFORDS STREET
PORTLAND, ME 04103

OWNER: JOHN BONETTI

56 BROOKSIDE ROAD
PORTLAND, ME 04103

ENGINEER: MICHAEL FARMER

38 A STREET
SOUTH PORTLAND, ME 04106

DATE: MAY 27, 1995 SCALE: 1"=20'

SHEET 1 OF 1

EXHIBIT 4

PURCHASE AND SALE AGREEMENT

AGREEMENT made this 2nd day of March, 1995, by and between GORHAM SAVINGS BANK (hereinafter "GSB"), with a principal office located at 64 Main Street, Gorham, Maine and John B. Bonetti of 56 Brookside Rd. Portland ME. 04103 (hereinafter "Buyer").

1. Property: GSB hereby agrees to sell, pursuant to the authority granted to it through the foreclosure action found in the Cumberland County Superior Court, Docket No. CV-93-692, and the Buyer hereby agrees to buy a certain lot or parcel of land with the buildings thereon, situated at Stroudwater Point, Portland, Maine, as more particularly described in Exhibit A attached hereto. Being a portion of the same premises mortgaged to GSB by Berma Partnership by Mortgage Deed dated July 8, 1992 and recorded in the Cumberland County Registry of Deeds in Book 10173, Page 335, this Mortgage Deed having been duly foreclosed by GSB.

2. Closing: Buyer and GSB agree to close this contract at the offices of Drummond & Drummond, One Monument Way, Portland, Maine, within forty-five (45) days, with Buyer delivering the balance of the purchase price to GSB no later than April 17, 1995.

3. Title: GSB agrees to convey its interest in the property by Quitclaim Deed Without Covenant to be delivered at closing subject to all existing easements, restrictions, encumbrances or other matters which may or may not be of record. Buyer acknowledges that the property is being sold "as is, where is" and that no representations are made by the Bank or its representatives as to the marketability or insurability of title.

EXHIBIT A

A certain lot or parcel of land with any buildings thereon situated in the City of Portland, County of Cumberland, State of Maine, being more particularly bounded and described as Lot 8, delineated on plan entitled "Recording Plat, Stroudwater Point, Kingsmark Lane, Portland, Maine," dated September 23, 1987, revised through December 15, 1987, made by Owen Haskell, Inc. and recorded in the Cumberland County Registry of Deeds in Plan Book 168, Page 28.

This conveyance is made subject to and with the benefit of the following items:

1. Terms and conditions noted on said Plan, including but not limited to the limitations imposed upon these portions of the above-described premises located in the "Protective Zone" as depicted on said Plan, those sewer and storm drainage easements affecting certain of the above-described premises, the pedestrian easement affecting certain of the above-described premises, and those drainage easements affecting certain of the above-described premises.

2. Terms and conditions of Declaration of Protective Covenants and Common Easements by Berma Partnership dated August 11, 1988, and recorded in said Registry of Deeds in Book 8425, Page 250.

3. Terms and conditions contained in the deed to Berma Partnership by Lawrence C. Butler dated December 23, 1987, and recorded in said Registry of Deeds in Book 8119, Page 251.

4. Terms and conditions contained in an Easement Deed from Berma Partnership to Central Maine Power Company and New England Telephone and Telegraph Company dated May 24, 1988 and recorded in the Cumberland County Registry of Deeds in Book 8444, Page 227.

5. Rights and easements granted to Central Maine Power Company as set forth in instrument dated August 23, 1956 and recorded in said Registry of Deeds in Book 2326, Page 190.

6. Terms and conditions of an agreement between Berma Partnership, Bryan L. and Allison Beck and Gerald S. and Jacqueline Robinov dated July 7, 1988 and recorded in said Registry of Deeds in Book 8425, Page 260.

7. Rights and easements granted to Portland Water District as set forth in instrument dated August 29, 1988

Legere Builders, Inc.

304 Woodfords Street
Portland, Maine 04102
(207) 871-9483

Proposal

Page 1

Proposal submitted to: **John B. Bonetti and Vickie W. Sans**

Phone: 772-7302

Date:

4/19/95

Street:

56 Brookside Rd.

Job Name:

City, State, Zip Code

Portland, Maine

Job Location: Lot 8

Stroudwater Subdv.

The following items are the specifications on one 28' x 36' Colonial Home to be built:

Framing Material:

- 2 x 10 floor joist, first and second floor, 16" OC.
- 2 x 6 KD exterior 7'3" pre-cuts, 16" OC.
- 2 x 4 KD interior 7'3" pre-cuts, 16" OC.
- 2 x 6 KD interior wall between the garage and the basement.
- 2 x 8 rafters on the roof.
- 2 x 6 collar ties, 32" OC.
- 1 x 3 spruce strapping, 16" OC.
- 2 x 6 PT sill with sill seal.
- 1 x 3 spruce bridging.
- 2 x 12 roof ridge.
- 2 x 12 first floor girder.
- 2 x 4 ledger.
- 2 x 12 stair stringers.
- Steel beam to be engineered for the garage center girder.
- 2 x 12 girder with no post over the family room area.

- Hearth - Flint Tile
→ Coll. Frame - NOT
- Brass or aluminum
- Paint - eggshell

Roofing Material:

- 4 x 8 1/2" CDX with clips.
- 20 Year Bird Moire Black Asphalt 3 tab Shingles.
- Colbra ridge vent.
- 1 Gable louvre vent.
- 8" galvanized drip edge.

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance.

Authorized Signature: *Randall W. Fajero, Pres* This proposal may be withdrawn by us if not accepted within 1 days.

ACCEPTANCE OF PROPOSAL The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: *April 19, 1995*

Signature: *John Bonetti*

Signature: *Vickie W. Sans*

ITEM 5A - ATTACHMENT

Legere Enterprises, a home building contractor, has been hired by John Bonetti to build a single family residential home on Lot 8 of Stroudwater Heights subdivision in the Stroudwater section of Portland. The proposed house would have a foot print of 28 ft. by 36 ft. The total disturbed would be approximately 75 ft. by 180 ft., or 13,500 square feet.

The construction site is located on relatively steep slopes near a stream. No alteration of, or construction in, the stream or its flood plain wetlands is proposed. The erosion control plan, described on Exhibit 3, is intended to protect the stream and its flood plain wetlands from the harmful effects of erosion.

The house lot is located at the end of the recently constructed cul-de-sac on Kingsmark Lane. This street has a sidewalk and granite curbing, which drain onto the street, and into an existing underground drainage system. This drainage feature is helpful for erosion control purposes at the construction site. Runoff from the uphill side of the site will be is diverted around the disturbed area.

LIST OF ABUTTING PROPERTY OWNERS

1. William C. Black and Jacqueline Potter
66 Stroudwater Road
Portland, ME 04102
2. Li L. Chen
64 Kingsmark Lane
Portland, ME 04102
3. John C. and Brenda J. Carland
59 Kingsmark Lane
Portland, ME 04102
4. Steven H. and Shelly S. Carvel
66 Stroudwater Road
Portland, ME 04102
5. Portland Water District
225 Douglas Street
Portland, ME 04104

can show that there will be no development within the setback required by the zoning ordinance on adjacent property which abuts the area for which a reduced setback is sought. The applicant will demonstrate compliance with the above requirement by providing an affidavit from the abutting property owner stating that the area in question will never be developed. Reduced setbacks will not be permitted when the area proposed for such setbacks abuts either city or state owned property. No setback reduction may be granted which would permit any structure on the lot which is the subject of the application to be within fifteen (15) feet of any existing residential structure on an adjacent lot.

(b) Recording of setback reduction. The zoning administrator shall provide a signed instrument in recordable form, indicating any setback reduction granted under the terms of this section. The applicant for such reduction shall be responsible for recording this instrument in the Cumberland County Registry of Deeds. The abutter's affidavit will also be recorded. (Ord. No. 139-93, 11-15-93)

Secs. 14-439-14-445. Reserved.

DIVISION 26. SHORELAND REGULATIONS

Sec. 14-446. Purposes.

The purposes of this division are to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect fish spawning grounds, aquatic life, bird and other wildlife habitat; protect buildings and lands from flooding and accelerated erosion; protect archaeological and historic resources; protect commercial fishing and maritime industries; protect freshwater and coastal wetlands; control building sites, placement of structures and land uses; conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty, as appropriate in an urbanized environment; and to anticipate and respond to the impact of development in shoreland areas.

(Code 1968, § 602.19A.A; Ord. No. 499-74, § 10, 8-19-74; Ord. No. 15-92, § 27, 6-15-92)

Sec. 14-447. Applicability.

This division applies to all land areas, uses, structures and land use activities within two hundred fifty (250) feet, horizontal distance, of the normal high water line of any river or saltwater body; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream. This division also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high water line of a water body or within a wetland.

(Code 1968, § 602.19A.B; Ord. No. 499-74, § 10, 8-19-74; Ord. No. 15-92, § 28, 6-15-92)

Sec. 14-448. Zoning districts and shoreland regulations.

The regulations and controls of this division apply to all land areas, uses, structures and land use activities cited in section 14-447, in all zones of the city.

(Code 1968, § 602.19A.C; Ord. No. 499-74, § 10, 8-19-74)

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(1) *Principal and accessory structures:*

- a. All principal and accessory structures shall be set back at least seventy-five (75) feet from the normal high water line of water bodies, tributary streams, or the upland edge of a wetland, except that in the following zones the setback shall be as indicated:
 - i. B-3: Twenty-five (25) feet.
 - ii. W-1, W-2, O-B, I-3b: No setback required.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the planning board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28) feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, W-1, W-2, I-B and I-3b zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such struc-

tures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

- b. The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one (1) foot above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
- c. Notwithstanding the requirements of this section, stairways or similar structures may be allowed with a permit from the building authority to provide shoreline access in areas of steep slopes or unstable soils, provided that:
 - i. The structure is limited to a maximum of four (4) feet in width;
 - ii. The structure does not extend below or over the normal high water line of a water body or upland edge of a wetland, unless permitted by the department of environmental protection pursuant to 38 M.R.S.A. Section 480-C; and
 - iii. The applicant demonstrates that no reasonable access alternative exists on the property.

(2) *Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high water line of a water body or within a wetland:*

- a. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion;
- b. The location shall not interfere with existing developed or natural beach areas;
- c. The facility shall be located so as to minimize adverse effects on fisheries;
- d. The facility shall be no larger in dimension than necessary to carry on the activity and shall be consistent with existing conditions, use and character of the area;
- e. Except in the W-1, W-2, I-B and I-3b zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;
- f. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high water line of a water body or within a wetland shall be converted to residential dwelling units in any zone.

(3) *Clearing of vegetation:*

- a. In all shoreland areas in resource protection zones, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.
- b. In all other areas, a buffer strip of vegetation shall be preserved, except where clearance is required for development of permitted uses, within a strip of land

extending seventy-five (75) feet, horizontal distance, from any water body, tributary stream, or the upland edge of a wetland, in accordance with the following:

- i. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy as measured from the outer limits of the tree crown. Notwithstanding this limitation, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.
- ii. Selective cutting of trees within the buffer strip is permitted provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees and other vegetation" adjacent to a water body, tributary stream or wetland shall be defined as maintaining a minimum rating score of eight (8) or more in any twenty-five-foot by twenty-five-foot square area as determined by the following rating system:

<i>Diameter of tree at four and one-half (4½) feet above ground level (Inches)</i>	<i>Points</i>
2-4	1
Greater than 4-12	2
Greater than 12	4

Notwithstanding the above provisions, no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter, measured at four and one-half (4½) feet above ground level may be removed in any ten-year period.

- iii. Pruning of tree branches on the bottom one-third of the tree is permitted.
- iv. Where the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in subsection b. of this section shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas in these locations shall be limited to the minimum amount necessary.

- c. Selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured four and one-half (4½) feet above ground level, shall be permitted within any ten-year period at distances greater than seventy-five (75) feet, horizontal distance, from the normal high water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent

calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate twenty-five (25) percent of the lot area, including land previously developed.

- d. Cleared openings legally in existence on June 15, 1992, may be maintained but shall not be enlarged, except as permitted by this division.
- e. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

(4) *Erosion and sedimentation control:*

- a. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan in accordance with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection of Portland Technical and Design Standards and Guidelines. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - i. Mulching and revegetation of disturbed soil.
 - ii. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - iii. Permanent stabilization structures such as retaining walls or riprap.
- b. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- c. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed ground area at every phase of construction shall be minimized to reduce the potential for erosion.
- d. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine (9) months of initial exposure. The following standards shall also be met:
 - i. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - ii. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

- iii. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 - e. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in accordance with the City of Portland Technical and Design Standards and Guidelines.
- (5) *Soils*: All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, either during or after construction. Proposed uses requiring subsurface wastewater disposal and commercial or industrial development or other similar intensive land uses shall require a soils report based on an on-site investigation and prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- (6) *Water quality*: No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body.
- (7) *Archaeological sites*: Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the department of planning and urban development, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the building authority. The building authority shall consider comments received from the commission prior to rendering a decision on the application. Such sites shall also comply with all applicable provisions of article IX of this chapter.
- (8) *Installation of public utility service*: No public utility of any kind shall install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this Code has been issued by the appropriate municipal authorities. Following installation of service, the public utility shall forward the written authorization to the appropriate municipal authorities, indicating that installation has been completed.

- (9) *Roads and driveways:* Except in the W-1, W-2, and I-3b zones where setbacks shall be the same as those established in subsection (1)a.ii. and iii. of this section for structures, roads and driveways shall be set back at least seventy-five (75) feet from the normal high water line, unless the planning board determines that no other reasonable alternative exists. Where the planning board makes a determination that no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.
- (10) *Parking areas:* All parking areas shall be set back a minimum of seventy-five (75) feet, except in the W-1, W-2, I-3b, and S-P zones, where setbacks shall be as established for structures in those zones, and in the R-OS, I-B, and I-2 zones, where parking areas shall be set back a minimum of twenty-five (25) feet from the normal high water line, unless the planning board determines that no other reasonable alternative exists. Where the planning board makes a determination that no other reasonable alternative exists, the planning board may reduce the parking setback requirement in the R-OS, I-B and I-2 zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.
- (11) *Stormwater runoff:*
- a. All new construction and development shall be designed to be in compliance with the City of Portland Technical and Design Standards and Guidelines to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.
 - b. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.
- (12) *Agriculture:*
- a. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July, 1972.
 - b. Manure shall not be stored or stockpiled within seventy-five (75) feet, horizontal distance, of water bodies, tributary streams, or wetlands. Within five (5) years from the effective date of this section, all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the five-year period.

- c. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a soil and water conservation plan to be filed with the building authority.
 - d. There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from water bodies or within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands when such new tilling, by itself or combined with all other contiguous tillage, shall exceed forty thousand (40,000) square feet in surface area. Operations in existence on the effective date of this section and not in conformance with these provisions may be maintained by shall not be expanded. When the new tilling, by itself or combined with all other contiguous tillage, shall total forty thousand (40,000) square feet or less, the tillage shall be set back a minimum of twenty-five (25) feet from all water bodies, tributary streams or wetlands.
 - e. Livestock grazing areas established after the effective date of this section shall not be permitted within seventy-five (75) feet, horizontal distance, of water bodies or within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with farm activities commenced prior to the effective date of this section shall be allowed to continue provided that such activity is conducted in accordance with a soil and water conservation plan filed with the building authority.
- (13) *General site plan features:* The planning board or planning authority shall approve a site plan located within a shoreland zone if it finds that the following standards, in addition to the standards set forth in section 14-526, are met:
- a. The proposal will maintain safe and healthful conditions;
 - b. The proposal will not result in water pollution, erosion, or sedimentation to surface waters;
 - c. The proposal will adequately provide for the disposal of all wastewater;
 - d. The proposal will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - e. The proposal will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
 - f. The proposal will protect archaeological and historic resources;
 - g. The proposal will not adversely affect existing commercial fishing or maritime activities;
 - h. The proposal will avoid problems associated with flood plain development and use; and
 - j. The proposal is in conformance with the standards set forth in this section.
- (Code 1968, § 602.19A.D; Ord. No. 499-74, § 10, 8-19-74; Ord. No. 38-85, § 1, 7-15-85; Ord. No. 15-92, § 29, 6-15-92)

NOTICE OF INTENT TO FILE

Please take notice that John B. Bonetti
c/o Legere Enterprises, 304
(Name, Address and Phone of Applicant)

Woodfords Street, Portland ME 04103

is intending to file a Natural Resources Protection Act permit application with the Maine Department of Environmental Protection pursuant to the provisions of 38 M.R.S.A. §§ 480-A through 480-V on or about June 1, 1995
(anticipated filing date)

The application is for _____
(state specifically what is to be done)

Construction near or adjacent to a regulated stream.

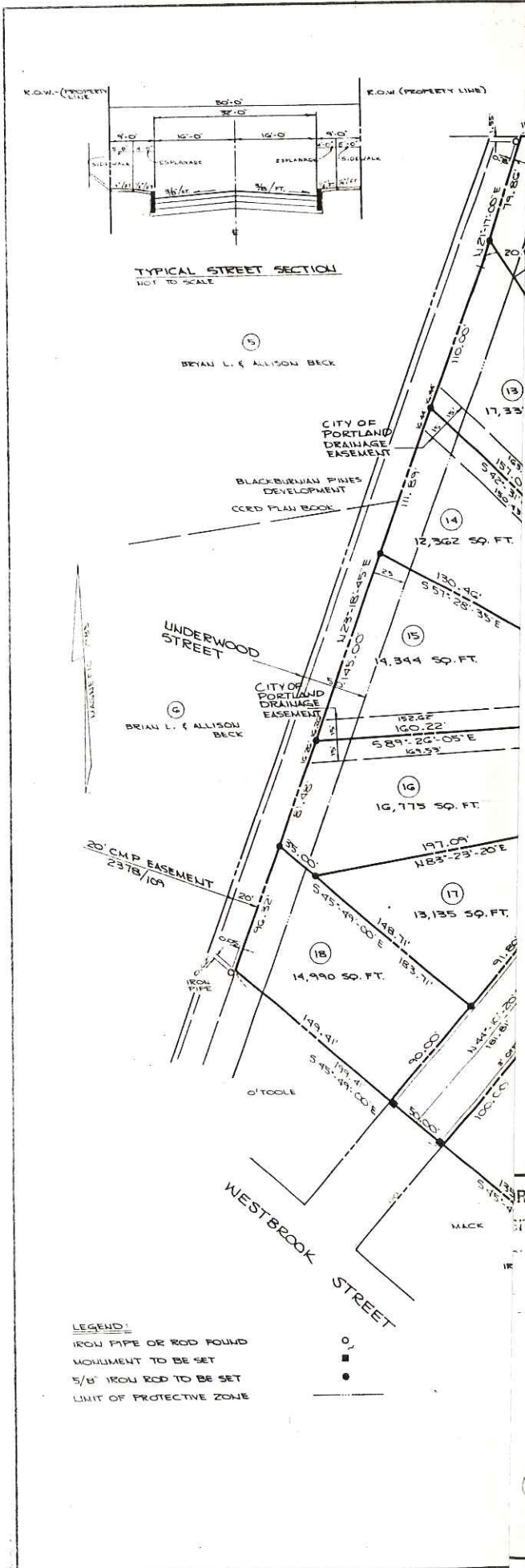
at the following location: Lot 8, Stroudwater Heights,
Kingsmark Lane, Portland, Cumberland County,
Maine
(project location)

A request for a public hearing or a request that the Board of Environmental assume jurisdiction over this application must be received by the Department, in writing, no later than 20 days after the application is found by the Department to be complete and is accepted for processing. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection. Public comment on the application will be accepted throughout the processing of the application.

The application will be filed for public inspection at the Department of Environmental Protection's office in (Portland, Augusta or Bangor) during normal working hours. A copy of the application may also be seen at the municipal offices in

Portland, Maine.
(town)

Written public comments may be sent to the Department of Environmental Protection, Bureau of Land and Water Quality, State House Station #17, Augusta, Maine 04333.



ALTERATIONS TO ORIGINAL APPROVED RECORDING PLAT HAVE BEEN APPROVED BY THE CITY OF PORTLAND DEPARTMENT OF PLANNING AND URBAN DEVELOPMENT IN COMPLIANCE WITH SECTION 14-496 OF THE SUBDIVISION ORDINANCE

ALTERATION NO.	DATE	DESCRIPTION	APPROVED BY DIRECTOR OF PLANNING & URBAN DEVELOPMENT
1	12/18/87	NOTE 9 OF THE PLAT INCORRECTLY IDENTIFIES THE DEVELOPER AS BERMAN ASSOCIATES, INC. BY THIS ALTERATION, THE DEVELOPER IS CORRECTLY IDENTIFIED AS BERMA PARTNERSHIP.	<i>[Signature]</i>

- NOTES:**
- PERIMETER BOUNDARIES ARE TAKEN FROM PLAN SHOWING LAND OF JANET LAINE IN PORTLAND, MAINE TO BE CONVEYED TO LAWRENCE BUTLER BY JOHN COYNE - SURVEYOR DATED DEC. 1985
 - THE PROTECTIVE ZONE INCLUDES RESTRICTIONS PLACED BY DEED COVENANT. REFER TO DEED FOR RESTRICTIONS
 - THE DRIVEWAY FOR LOTS 19, 20, AND 21 SHALL BE FROM SPAR LAINE
 - LOTS 5, 6, 7, 8, 9, 10, 11, 12, AND 21 REQUIRE THE SUBMISSION OF A SITE PLAN SHOWING GRADING, SLOPE TREATMENT, AND EROSION CONTROL PROVISIONS TO THE CITY OF PORTLAND PLANNING DEPARTMENT FOR STAFF REVIEW. THE PLAN SHALL BE APPROVED BY THE PLANNING DEPARTMENT PRIOR TO THE ISSUANCE OF A BUILDING PERMIT BY THE CITY.
 - AN EROSION CONTROL PLAN FOR THE PROJECT HAS BEEN PREPARED BY DELUCA - HOFFMAN ASSOCIATES, INC. TITLED "STORMWATER MANAGEMENT AND EROSION CONTROL PROGRAM FOR THE STROUDWATER HEIGHTS SUBDIVISION, PORTLAND, MAINE" DATED SEPT. 1987, AND IS ON FILE AT THE PORTLAND PUBLIC WORKS DEPARTMENT. THE PROVISIONS OF THIS PROGRAM SHALL BE RIGIDLY ADHERED TO DURING CONSTRUCTION.
 - R.O.W. MONUMENTS SHALL BE INSTALLED TO MEET THE REQUIREMENTS OF EXHIBIT F OF THE TECHNICAL SUPPLEMENT OF THE SUBDIVISION ORDINANCE
 - NOTE FOR LANDSCAPING: THE TREES IN THE MIDDLE OF EACH CURB-DE-SAC SHALL BE PROTECTED FROM DAMAGE. TREES ON EACH LOT SHALL BE PRESERVED IN ACCORDANCE WITH THE TECHNICAL SUPPLEMENT OF THE SUBDIVISION ORDINANCE OR TWO TREES SHALL BE PLANTED 5' INSIDE OF R.O.W. FOR EACH LOT WHERE CITY DETERMINES THE REMAINING TREES ARE INADEQUATE
 - TOTAL AREA OF SUBDIVISION IS 13.65 ACRES
TOTAL AREA RESERVED FOR STREETS IS 1.65 ACRES
TOTAL NUMBER OF HOUSE LOTS IS 21
ZONING DISTRICT IS R-2
 - DEVELOPER IS BERMA ASSOCIATES, INC. 198 MIDDLE ST. PORTLAND, MAINE
 - THIS PLAN REFLECTS THE FOLLOWING VARIANCES FROM THE CITY OF PORTLAND SUBDIVISION ORDINANCE:
 - FRONTAGE OF LOT 7 ON STROUDWATER ROAD WILL NOT HAVE GRANITE CURB ALONG THE GUTTER LINE
 - THIS VARIANCE FROM THE CITY OF PORTLAND SUBDIVISION ORDINANCE WAS GRANTED ON JANUARY 12, 1988.
 - REFERENCE IS MADE TO PLAN OF BLACKBURIAN PINES DATED AUGUST 1981 AND RECORDED IN CCD PLAN BOOK HZ/68

1/13/88

REV. 5	12/15/87	CLARIFIED PROTECTIVE ZONE IS LOT 9
REV. 4	12/15/87	CHANGE OWNER TO BERMA PARTNERSHIP
REV. 3	12/15/87	CHANGE NAME OF PROJECT TO STROUDWATER POINT FORMERLY STROUDWATER HEIGHTS
REV. 2	2/3/87	SIDEWALKS REQUIRED BOTH SIDES VARIANCE REQUEST DENIED
REV. 1	10/1/87	ADDED UNDERWOOD STREET & MISCELLANEOUS CHANGES

RECORDING PLAT
STROUDWATER POINT
 KINGSMARK LANE
 PORTLAND, MAINE
 FOR
BERMA PARTNERSHIP
 Owen Haskell, Inc.
Civil Engineers South Portland, Maine *Land Surveyors*

Drawn By: D.B.P.	Date: SEPT. 23, 1987	Job No. B7123 P
Trace By: M.M.H.	Scale: 1" = 50'	Drawn No. 1
Check By: J.W.S.		
Bk No. 395		



ATT 7

72 Stroudwater Road
Portland, ME 04102

August 3, 1995

Mr. Joseph Gray
Director of Planning and Urban Development.
City of Portland
389 Congress St.
Portland, ME 04101

Dear Mr. Gray:

This is in reference to the hearing scheduled for Tuesday, August 8, 1995 regarding a proposed reduction of the shoreland zoning requirement for 67 Kingsmark Lane.

We are abutters to this property who are concerned that the owner of this lot is violating the Protective Zone established by the approved subdivision plan for Lot 8, Stroudwater Heights. The Protective Zones were agreed to by the developer of the Subdivision after review by various governmental agencies and negotiation with the Stroudwater Improvement Association and were incorporated into the approved subdivision plan. The terms were to be included in deed covenants running with the land. As noted in Section 4 of the Planning Department Report for Stroudwater Heights, submitted to the Portland Planning Board on October 6, 1987,

"This zone includes some of the most significant slopes on the site, as well as buffers the abutting Stroudwater Sanctuary and the Blackburnian Pines Subdivision. Inside the protective zone, there will be no cutting and filling of slopes. Tree removal will be restricted to (1) removal of 33% of trees between 3-6 inches in diameter over a 10 year period, and (2) removal of 10% of trees between 6-12 inches in diameter over a 10 year period....These restrictions were developed to prevent erosion of significant slopes on the site and in response to neighborhood concerns."

We reviewed the building plan submitted by the owner and builder of Lot 8 in connection with this request. The plan fails to show the Protective Zone on Lot 8. This omission is more than an oversight; it is misleading to the Planning Board relative to this application. There has been significant tree removal on Lot 8 which we believe violates the tree removal restrictions referenced above. The Protective Zone needs to be marked on the plan and on the site, and the lot owner should remediate and restore the trees and vegetation improperly removed. We remain very concerned that the slope to Lot 8 near our property line, which has a stream leading to the marsh, be protected so as to avoid erosion and undue runoff.

Joseph Gray


08/03/95,page 2

We also oppose the reduction of the shoreland zoning requirement. While we recognize the rights of an owner to build on and develop his or her property, they knew or certainly should have known about this requirement, as well as the Protective Zone and other restrictions on the subdivision plan and recorded covenants.

Your consideration of these issues is appreciated.

Sincerely,


Shelley Stuart Carvel


Steven Carvel



Certificate of Occupancy

LOCATION 67 Kingsmark Ln (Lot #8) 226-A-013

Issued to John Bonetti & Vickie Sans

Date of Issue 11 December 1995

This is to certify that the building, premises, or part thereof, at the above location, built — altered — changed as to use under Building Permit No. 950893, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

Entire

APPROVED OCCUPANCY

Single Family Dwelling
w/deck on 1st, balcony on 2nd

Limiting Conditions: TEMPORARY: Expires 01 May 1996

As per letter from James Seymour dated 11 December 1995 attached. Each item to be completed by date indicated.

This certificate supersedes
certificate issued

Approved:

12/11/95

(Date)

Kim Russell
Inspector

James Seymour
Inspector of Buildings

Notice: This certificate identifies lawful use of building or premises, and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or lessee for one dollar.

copy
SBC

**Vickie W. Sans
67 Kingsmark Lane
Portland, Maine 04102
207-774-4132 Ext.103 work**

April 10, 1996

To the City of Portland;

This shall serve as a formal request for an extension of the Temporary Occupancy Permit, for 67 Kingsmark Lane, Portland, Maine (please see the attached).

When the original Temporary Occupancy Permit was issued, John Bonetti and I we were in dispute over contractual issues relating to the property, and as follow up to that dispute we are currently in litigation with the contractor, Randall Legere, President/Owner, Legere Builders Inc. Consequently, we find ourselves in a position to have to request this extension.

The original Temporary Occupancy Permit was issued based on the attached letter from the Code Enforcement Officer. The conditions as outlined in that letter continue to exist and are referenced above as the continuing dispute and litigation.

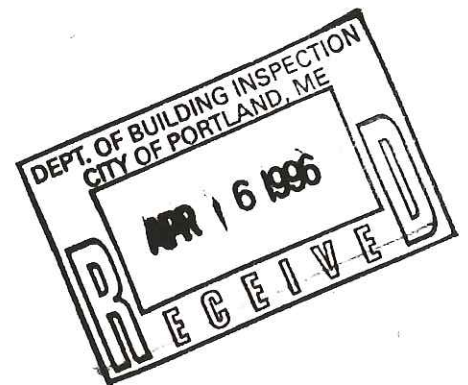
Currently, John Bonetti and I are being represented by the law firm of Hopkinson & Abbondanza, P.A., 511 Congress Street, Portland, Maine. We have engaged these attorneys in hopes of a speedy resolution to this problem. However, as it has not been resolved, we must have this extension and would appreciate your consideration to that end.

Should you have any questions with regard to the above matter, call me at the above listed number between the hours of 9am to 5pm.

Sincerely Yours,



Vickie W. Sans





CITY OF PORTLAND
Planning and Urban Development Department

MEMORANDUM

TO: Kevin Carroll, Code Enforcement Officer

FROM: James Seymour, Acting Development Review Coordinator *JRS*

DATE: December 11, 1995

RE: Temporary Certificate of Occupancy for 67 Kingsmark Lane

I have reviewed the single family residence at 67 Kingsmark Lane and believe it would be acceptable to issue a temporary Certificate of Occupancy. A permanent Certificate of Occupancy should not be issued until the following conditions have been met.

1. A stone retaining wall constructed on the east side of the house appears to be a free standing stone wall. I foresee two problems with the wall:
 - a) The wall exceeds 5 ft. in height and currently holds a significant load of filled material behind the wall. Because of the apparent placed stone construction without any apparent anchors or geotextile fabrics, I must question the stability of this wall.
 - b) The wall is subject to significant saturation due to the path of drainage travelling from the driveway. A stone swale directs surface runoff from the driveway over the embankment area to the east property line and discharges at the foot of the embankment. Although grades eventually direct runoff to the stream to the rear, I foresee soil saturation and icing as a probable occurrence during the winter.

For the purposes of safety, stability, and appearance, the wall should be reviewed in the Spring by a certified professional or engineer. At that time, a letter and/or calculations should be submitted to the City's Planning Authority discussing the stability and safety. If the wall is not determined to be stable or safe, then provisions, to include details and a construction schedule to correct any wall defects, should be provided to the Development Review Coordinator. All reports and assessments should be submitted to the City prior to May 1st, 1996.

2. Because of the excessive slopes on the embankment to the driveway the applicant must install a guardrail/barrier for pedestrian and vehicular traffic. A guardrail must be installed along length of driveway as per section 1825.5 of the 1993 BOCA Building Code, to be constructed as per section 1021 of the 1993 BOCA Building Code. Installation shall be completed and reviewed by the Building Inspector and Development Review Coordinator within 10 days following the date of issuance of the temporary occupancy certificate.
3. At the time of my inspection, the ground surface was covered with 3-4" of snow/ice making it difficult to review the lot grading. It appears that lot grading may be necessary in the spring. Erosion control mesh anchored on the embankment located at the rear of the house shall be periodically inspected. In the spring once the soil is unfrozen, the mesh shall be permanently secured and graded. The final lot grading shall be approved by the DRC by May 1, 1996 or prior to issuance of a permanent Certificate of Occupancy.
4. Siltation fencing and hay bales at the limit of construction as reviewed by the Development Review Coordinator shall be maintained throughout the winter. If the siltation fence fails, it should be properly toed and secured by either a date when ground surface becomes unfrozen enough to install fencing or a date no later than April 1, 1996. Haybales must be properly staked. Both haybales and siltation fence may be removed once areas disturbed by construction have become 80% revegetated. All erosion control measures including erosion control mesh, haybales, and siltation fencing must be installed and maintained in accordance with the Best Management Practices (BMP's) as published by the Maine Department of Environmental Protection.
5. The disturbed lot area shall be loamed, seeded and mulched no later than May 1, 1996 and approved by the Development Review Coordinator. Areas on the embankment area may use a conservation seeding mix, but must be in accordance with the BMP's for Erosion and Sedimentation Control.
6. Due to confusion of permitting, the Applicant used the 65 Kingsmark Lane address rather than the 67 Kingsmark Lane. The applicant shall immediately change the posted address on the home to 67 Kingsmark Lane, since all building permits are under this address.
7. The applicant must submit a recorded plan showing setback reductions. The plan must be recorded at the Cumberland County Registry of Deeds as was made a condition on the Approval Letter dated August 9, 1995 from the Portland Planning Board. Plans must be submitted to the Planning Authority within 30 days.

cc: Kathi Staples PE, City Engineer